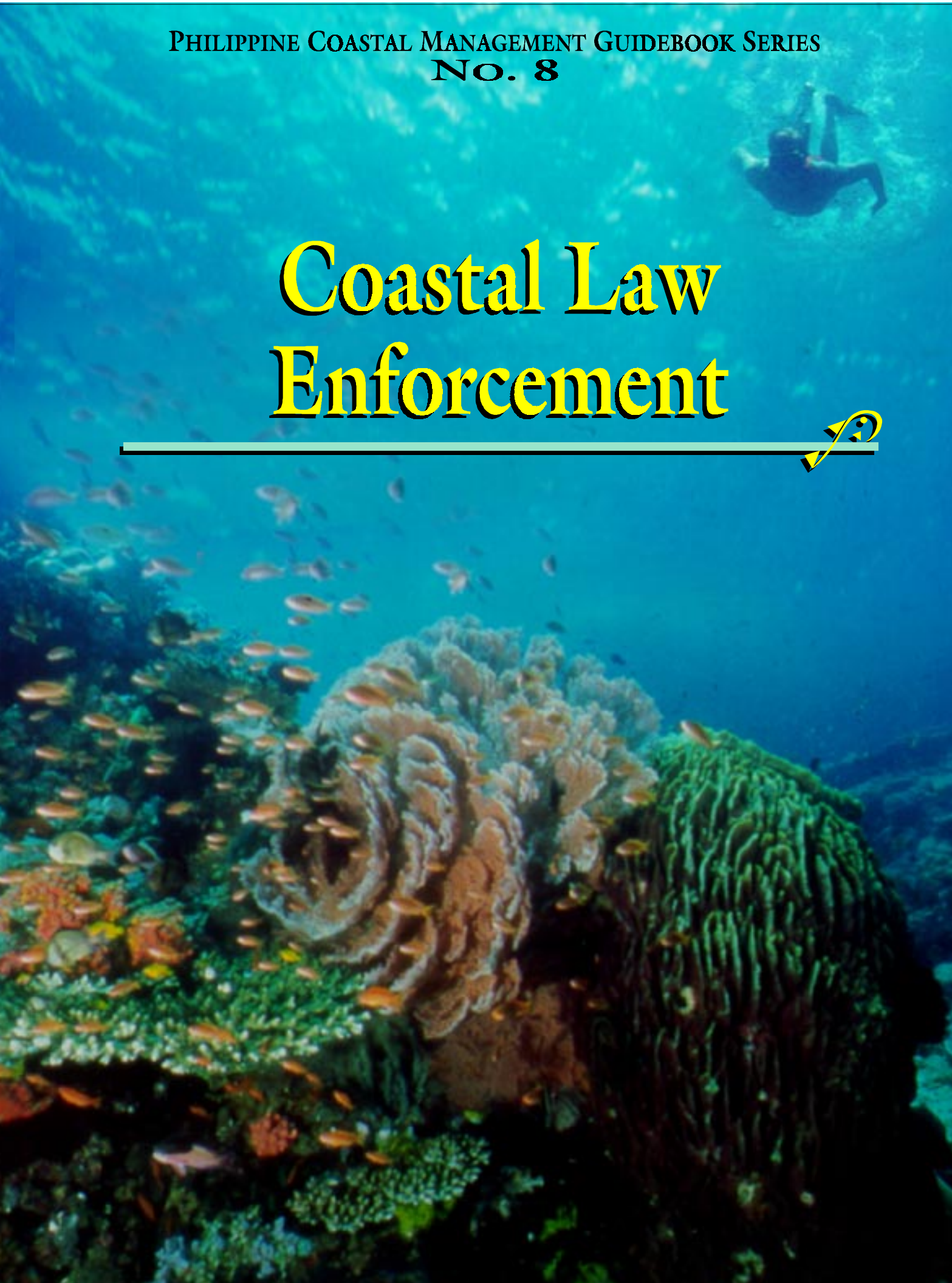


PHILIPPINE COASTAL MANAGEMENT GUIDEBOOK SERIES
No. 8

Coastal Law Enforcement



PHILIPPINE COASTAL MANAGEMENT GUIDEBOOK SERIES

No. 8:

COASTAL LAW ENFORCEMENT

By

Department of Environment and Natural Resources

Bureau of Fisheries and Aquatic Resources

of the

Department of Agriculture

Department of the Interior and Local Government

and

Coastal Resource Management Project

of the

Department of Environment and Natural Resources

supported by the

United States Agency for International Development

Philippines

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Department of Environment and Natural Resources (DENR)
Bureau of Fisheries and Aquatic Resources of the Department of Agriculture (DA-BFAR)
Department of the Interior and Local Government (DILG)
and
Coastal Resource Management Project (CRMP)

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Contents

List of tables	v
List of figures	vii
List of acronyms and abbreviations	ix
Acknowledgments	xiii
Foreword	xvi
Preface and orientation to this guidebook series	xvii
Chapter 1. Introduction	1
Coastal issues and obstacles to law enforcement	1
Role of enforcement in coastal resource management	3
Guiding principles and framework for coastal law enforcement	5
The need for an integrated, multisectoral approach to coastal law enforcement	7
Chapter 2. Legal and institutional context for coastal law enforcement	9
Legal framework for coastal law enforcement in the Philippines	9
Institutional mandates for coastal law enforcement	15
Chapter 3. Common violations of coastal laws	27
Coastal zone features	27
Typology of coastal law violations	29
Relatedness of violations	39
Chapter 4. Soft coastal law enforcement approaches to achieve voluntary compliance	43
Coastal resource management planning	43
Legislation and regulation	47
Monitoring and evaluation	49
Information management	52
Education and outreach	54
Networking and alliance building	59
Chapter 5. Hard coastal law enforcement approaches to achieve general and special deterrence	63
Intelligence and networking	64
Enforcement planning	66
Enforcement operations	67
Rules of engagement	73

Handling of evidence	80
Case preparation	87
Criminal procedure	88
Administrative procedure	94
Chapter 6. Strategies to address common violations of coastal laws	99
Strategies to address common violations of coastal laws	99
Strategies to address fisheries-related violations	100
Strategies to address protected aquatic species-related violations	111
Strategies to address coastal habitat-related violations	114
Strategies to address foreshore and shoreline development-related violations	116
Strategies to address coastal and marine pollution-related violations	118
Chapter 7. Emerging trends in coastal law enforcement	123
Demilitarizing coastal law enforcement	123
National initiatives in coastal law enforcement	125
Local initiatives in coastal law enforcement	126
Balancing soft and hard approaches for coastal law enforcement	127
Building local capacity for coastal law enforcement	130
Establishing multisectoral coastal law enforcement support systems	132
Annexes	
1A Legal provisions and penalties for common fisheries-related violations	137
1B Legal provisions and penalties for common protected aquatic species-related violations	142
1C Legal provisions and penalties for common coastal habitat-related violations	145
1D Legal provisions and penalties for common foreshore and shoreline development-related violations	147
1E Legal provisions and penalties for common coastal and marine pollution-related violations	149
1F Legal provisions and penalties for other violations/crimes in the coastal zone	154
2 Commonly asked questions answered	155
References	161

List of tables

Table 1	Types of issuances in hierarchy of importance	10
Table 2	Philippine Constitution: Provisions related to the environment, subsistence fishers, and people's participation in governance	11
Table 3	National laws with provisions relative to coastal law enforcement	12
Table 4	Coastal law enforcement mandates of national government agencies	16
Table 5	Coastal law enforcement mandates of local government officials	18
Table 6	Roles of citizens, volunteer groups, and other interest groups in coastal law enforcement	21
Table 7	Definitions of key coastal features	28
Table 8	List of prohibited/regulated aquatic species in the Philippines	33
Table 9	Examples of regulatory mechanisms and prohibitions enacted through local legislation	48
Table 10	Monitoring indicators and methods applicable to coastal law enforcement	49
Table 11	Coastal law enforcement survey for <i>barangay</i>	51
Table 12	Illustrative data fields pertaining to coastal law enforcement in the MCD	53
Table 13	Examples of bi-polarity of the Philippine value system	56
Table 14	Networks and alliances in the coastal law enforcement continuum	59
Table 15	Outline of a typical operations plan for coastal law enforcement	66
Table 16	Operational tactics used in coastal law enforcement	68
Table 17	Overview of boarding procedures used to inspect or search maritime vessels	70
Table 18	Pre-boarding observations	71
Table 19	Recommended uniform requirements and equipment for boarding	72
Table 20	Minimum information obtained during an investigation of a maritime vessel	74
Table 21	Rules to be followed when taking statements	85

Table 22	Handling of preservation procedures for fish and water samples	86
Table 23	Case preparation tips	87
Table 24	Strategies to address municipal fishing-related violations	104
Table 25	Strategies to address commercial fishing-related violations	108
Table 26	Strategies to address protected aquatic species-related violations	113
Table 27	Strategies to address coastal habitat-related violations	115
Table 28	Strategies to address common foreshore and shoreline development-related violations	117
Table 29	Strategies to address pollution-related violations	120
Table 30	Benefits of coastal law enforcement	128
Table 31	Benchmarks of coastal law enforcement capacity at different levels of government	130
Table 32	Functions of multisectoral coastal law enforcement support systems at different levels of government	133

List of figures

Figure 1	Illegal activities occurring in the coastal zone and municipal waters	2
Figure 2	Coasal resource management process adapted for the Philippine local government	4
Figure 3	Coastal law enforcement framework	6
Figure 4	Diagrammatic presentation of key coastal features	27
Figure 5	Coastal resources and issues mapped through a participatory process serve as baseline information for planning a local coastal law enforcement strategy	45
Figure 6	Illustrative municipal water use zoning plan	46
Figure 7	Sample law enforcement report card for a municipality in the Province of Bohol generated by the MCD	52
Figure 8	Trends in coastal law enforcement at the provincial level based in records in the MCD	54
Figure 9	Social marketing strategies to promote compliance with coastal laws	58
Figure 10	Enforcement flow chart	63
Figure 11	Coastal law enforcement issues in coastal areas and municipal waters of Bohol developed through the participation of multisectoral networks	65
Figure 12	Positioning of boarding team on vessel to be inspected	73
Figure 13	Sample certificate of orderly inspection	75
Figure 14	Use of force continuum model	77
Figure 15	Sample receipt for confiscated fish	81
Figure 16	Sample receipt for confiscated items believed to be explosives, noxious or poisonous substances	82
Figure 17	Sample receipt for impounded boat	83
Figure 18	Criminal procedure flowchart	89
Figure 19	Sample transmittal letter of apprehending unit to the prosecutor	90
Figure 20	Administrative procedure process	95

Figure 21	Sample affidavit	96
Figure 22	Enforcement elements of common municipal fishing violations	101
Figure 23	Guide to the recognition of fish caught with the use of explosives	102
Figure 24	Enforcement elements of common commercial fishing violations	107
Figure 25	Push and pull strategies for stopping illegal intrusion of commercial fishing in municipal waters	110
Figure 26	Enforcement elements of common protected species violations	112
Figure 27	Enforcement elements of common coastal habitat-related violations	114
Figure 28	Enforcement elements of common foreshore and shoreline development-related violations	116
Figure 29	Enforcement elements of common marine pollution-related violations	119
Figure 30	Key political and legal events shaping law enforcement in the Philippines	124

List of acronyms and abbreviations

AFP	Armed Forces of the Philippines
AO	Administrative Order
BFAR	Bureau of Fisheries and Aquatic Resources
BOC	Bureau of Customs
CABCOM-MOA	Cabinet Committee on Marine and Ocean Affairs
CITES	Convention on International Trade in Endangered Species
CLEAR7	Coastal Law Enforcement Alliance in Region 7
CRM	coastal resource management
CRMP	Coastal Resource Management Project
CSC	Civil Service Commission
DA	Department of Agriculture
DA-BFAR	Department of Agriculture-Bureau of Fisheries and Aquatic Resources
DAO	Department Administrative Order
DENR	Department of Environment and Natural Resources
DILG	Department of the Interior and Local Government
DND	Department of National Defense
DOJ	Department of Justice
DOTC	Department of Transportation and Communications
ECA	environmentally critical area
ECC	environmental compliance certificate
ECP	environmentally critical project
EIS	environmental impact statement
EMB	Environmental Management Bureau (DENR)
ENRO	Environment and Natural Resources Officer
EO	Executive Order
FAO	Fisheries Administrative Order
FARMC	Fisheries and Aquatic Resources Management Council
GT	gross tons
IEC	information, education, and communication
KBP	<i>Kapisanan ng mga Brodkaster ng Pilipinas</i>
LGC	Local Government Code
LGU	local government unit
LOI	Letter of Instruction
MARINA	Maritime Industry Authority
MC	Memorandum Circular

MCD	Municipal Coastal Database
MCS	Monitoring, Control and Surveillance
MCTC	Municipal Circuit Trial Court
MeTC	Metropolitan Trial Court
MOA	Memorandum of Agreement
MTC	Municipal Trial Court
MTCC	Municipal Trial Court in Cities
NAMRIA	National Mapping and Resource Information Authority
NBI	National Bureau of Investigation
NEDA	National Economic and Development Authority
NGA	national government agency
NGO	nongovernment organization
NIPAS	National Integrated Protected Areas System
NPO	National Prosecution Office
PCG	Philippine Coast Guard
PCRA	Participatory Coastal Resource Assessment
PD	Presidential Decree
PIA	Philippine Information Agency
PNP	Philippine National Police
PNP-MG	Philippine National Police - Maritime Group
PO	people's organization
PPA	Philippine Ports Authority
RA	Republic Act
RTC	Regional Trial Court
USAID	United States Agency for International Development

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Foreword

Department technical personnel have reviewed and fully endorse the *Philippine Coastal Management Guidebook Series* as an essential information guide to assist in improving the status of Philippine coastal resources and their management. This series of guidebooks strengthens our capacity to enhance coastal management efforts in the country. It clearly identifies roles and responsibilities for all concerned departments, agencies, and organizations in this collaborative coastal environmental management effort.

Let us enjoin all users of these guidebooks to collectively work for sustainable management of our coastal resources for the economic and environmental well-being of our country!



Department of
Environment and
Natural Resources



Department of
Agriculture - Bureau of
Fisheries and Aquatic
Resources



Department of the
Interior and Local
Government

Preface and orientation to this guidebook series

This book is the eighth in a series of eight guidebooks to coastal management in the Philippines. The titles and basic content of these eight books are shown next page. The series covers major topics concerning all aspects of coastal management in the Philippines and follows a theme of local government perspective, while highlighting the role of various stakeholders and other factors that affect coastal environments.

This eighth book, *Coastal Law Enforcement*, addresses perennial issues of law enforcement. It provides an overview of the legal mandates of different government and non-government entities with law enforcement functions. This guidebook discusses in part the resources in the coastal and marine environment that needs special protection. It identifies the typology of violations directly affecting the coastal environment as well as the offenses that occur in them. Approaches to addressing coastal law violations previously available only in military literature are also explained in a layman's term in recognition of the increased participation of non-uniformed agencies in law enforcement resulting from recent enactments. Lastly, emerging trends and best practices in coastal law enforcement are presented. The annexes provide additional information that can be useful to both law enforcement practitioners and coastal resource management planners.

Coastal management is the theme of these books because of the urgent need to manage and protect the coastal resources of the Philippines. These resources are known to be incredibly valuable and important to the country's security. If the management problems are not addressed soon using integrated approaches, the environmental and food security of the country will be further threatened. These guidebooks lay out a process to address deteriorating coastal environments, loss of resources, increasing poverty, and to reverse current trends. They are holistic in approach while offering many specific solutions that are easy to implement. Read, comprehend, and make use of these guidebooks!

Philippine Coastal Management Guidebook Series—Titles and contents

1. Coastal Management Orientation and Overview	<ul style="list-style-type: none"> ♦ Definitions and trends in coastal management ♦ Issues, resources, and impacts of concern in the Philippines ♦ Introduction to the coastal management process in the Philippines ♦ Guidebook series and how to use it
2. Legal and Jurisdictional Framework for Coastal Management	<ul style="list-style-type: none"> ♦ All laws pertaining to coastal management ♦ All jurisdictions affecting coastal areas and resources ♦ The roles and mandates of government agencies
3. Coastal Resource Management Planning	<ul style="list-style-type: none"> ♦ Coastal management planning process from local government perspective ♦ Key steps and procedures in the process ♦ How to develop the coastal management plan
4. Involving Communities in Coastal Management	<ul style="list-style-type: none"> ♦ Importance of involving coastal communities ♦ Community organization process and participatory approaches ♦ Information, education, and communication techniques ♦ Sustainability of community-based coastal management
5. Managing Coastal Habitats and Marine Protected Areas	<ul style="list-style-type: none"> ♦ The coastal marine ecosystem and how it functions ♦ Management considerations of critical coastal habitats ♦ Creating and managing marine protected areas
6. Managing Municipal Fisheries	<ul style="list-style-type: none"> ♦ Municipal waters and legal jurisdiction for fisheries management ♦ Planning for fisheries management ♦ Management interventions and how to apply them
7. Managing Impacts of Development in the Coastal Zone	<ul style="list-style-type: none"> ♦ Roles of planning and environmental impact assessment ♦ Environmental guidelines for coastal development ♦ Government role and mandate to prevent development impacts ♦ Managing coastal and marine pollution
8. Coastal Law Enforcement	<ul style="list-style-type: none"> ♦ Major issues in effective law enforcement in coastal management ♦ Roles and responsibilities of major law enforcement groups ♦ Initiatives to improve fishery law enforcement

chapter 1

Introduction

The Philippines is endowed with many worthwhile laws designed to protect the coastal environment and manage fisheries and other coastal resources in a sustainable manner. Implementation of these laws, however, has been slow and fragmented. The responsibility for coastal resource management (CRM) has been largely devolved to local government units (LGUs), in particular, coastal cities, municipalities, and provinces. While increasing numbers of coastal LGUs are developing CRM plans and programs together with coastal communities and other institutions, illegal fishing and habitat-destructive practices remain prevalent in coastal areas throughout the Philippines. Why have these laws not achieved their intended results? One obvious explanation is an inadequate level of coastal law enforcement.

CRM cannot succeed without effective coastal law enforcement. CRM is a participatory process of planning, implementing, and monitoring sustainable uses of coastal resources through collective action and sound decision-making. A CRM plan identifies a variety of strategies to manage coastal resources that are implemented through co-management regimes between local government, national government, nongovernment organizations (NGOs), academic institutions, private sector, and coastal stakeholders by establishing marine protected areas, licensing municipal fisherfolk, establishing closed fishing seasons and areas, and other measures to limit access to coastal resources. Coastal law enforcement units must be formed and functional in all coastal LGUs to promote voluntary compliance with and to apprehend violators of national and local laws and regulations.

This guidebook provides a guiding framework for improving compliance with fisheries and other CRM-related laws through coastal law enforcement. Specific strategies are described for common violations. The importance of an integrated, multisectoral approach to coastal law enforcement is emphasized in accordance with co-management regimes necessary to successfully manage coastal resources.

COASTAL ISSUES AND OBSTACLES TO LAW ENFORCEMENT

Coastal resources in the Philippines are being severely degraded by a wide variety of human activities, many of which are illegal or in violation of national and local laws and regulations (Figure 1). Illegal logging and mining in upland areas cause siltation and contamination of rivers and coastal waters. Illegal conversion of mangrove areas into reclamation projects and fishponds degrades and can permanently destroy important coastal ecosystem functions including nursery

grounds for juvenile fish, filtration of sediments and pollutants, and protection of coastal land from erosion. The use of destructive fishing practices such as dynamite and cyanide fishing and the intrusion of commercial fishing vessels into municipal waters causes overexploitation of municipal fisheries, habitat destruction, and deprives marginal fishers of food and livelihood. Unregulated release of pollutants from both land and sea-based activities including industries, agriculture, and shipping degrades water quality, causes fish kills, and can be toxic to larval marine life. Illegal trade in endangered and protected species, such as sea turtles, manta rays, whale sharks, dolphins, whales, and corals, results in local extinctions and habitat destruction. Together, coastal resources in the Philippines are under siege from a wide range of human activities many of which are in violation of national and local laws and regulations.

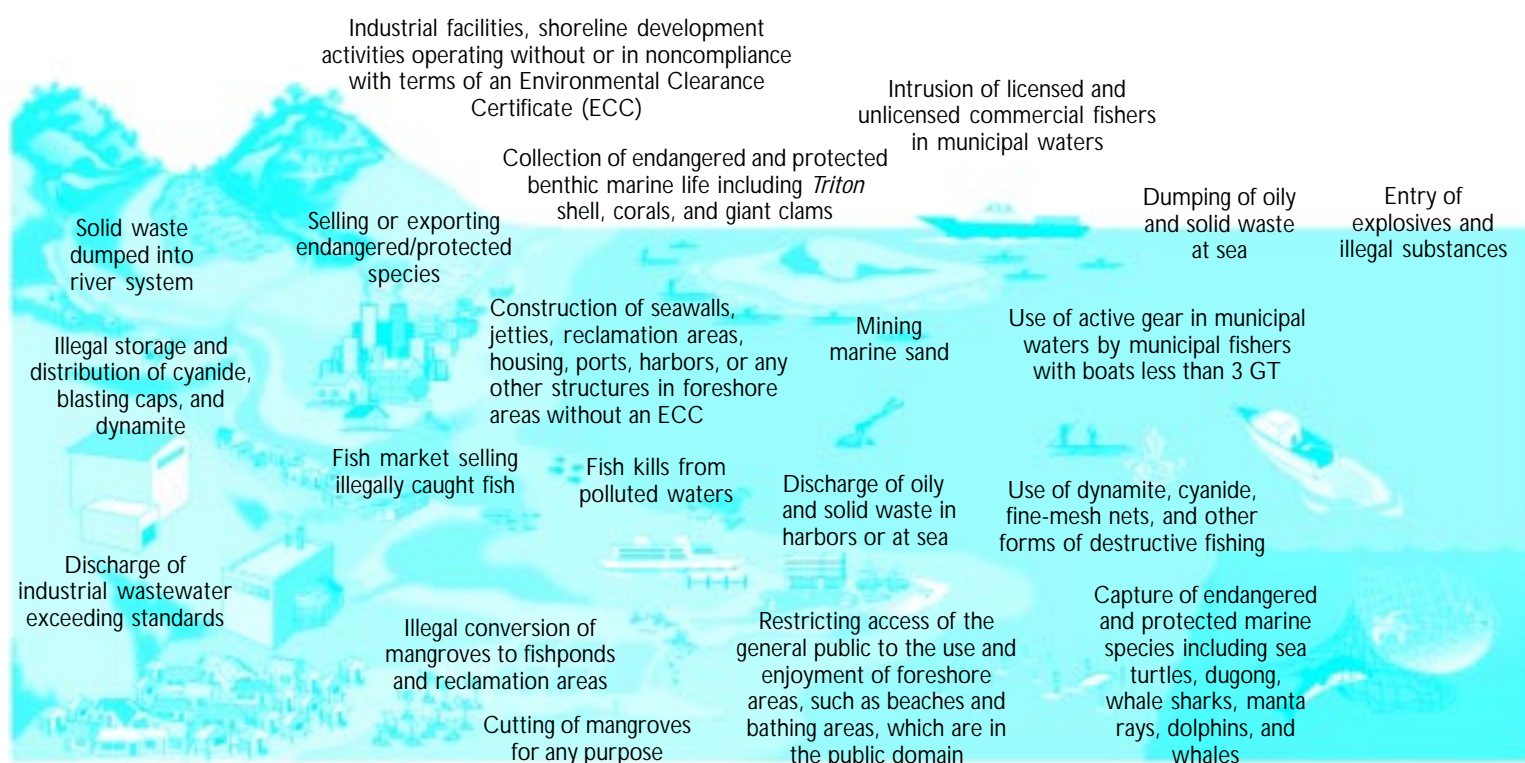


Figure 1. Illegal activities occurring in the coastal zone and municipal waters.

The overall consequence of these illegal activities is declining fisheries productivity, loss of marine biodiversity, and degradation of coastal ecosystem health. The net loss from blast fishing alone to Philippine reefs is estimated to be US\$1,640,000,000 or 65.6 trillion pesos (US\$1=PhP40) over the next 20 years* (Cesar 2000). The net benefits to blast fishers over the same time period is estimated at US\$170,000,000, a small fraction of what is lost to the rest of society. For the people of the Philippines, these losses translate into a food security crisis and increased poverty for the nation.

*Calculated in terms of net present value at a 10 percent discount rate.

Improving the implementation of coastal laws is more than enhancing the capacity of law enforcement officers to apprehend violators. Effective coastal policy and law implementation must address all aspects of the law enforcement continuum including legislation and regulation, apprehension, prosecution, judgment, education, and monitoring. Some major obstacles to effective implementation of CRM-related laws include:

- ♦ Conflicting policies and laws and implementation programs;
- ♦ Lack of political will to implement laws and enforcement programs;
- ♦ *Padrino* or incentive system that promotes illegal activities;
- ♦ Lack of patrol boats and other basic equipment to conduct monitoring and patrols;
- ♦ Lack of trained coastal law enforcement units;
- ♦ Weak coordination between and among law enforcement agencies;
- ♦ Lack of clear “lead” agency in coastal law enforcement;
- ♦ Slow justice system with judiciary and prosecutors unfamiliar with fisheries and other laws;
- ♦ Lack of public awareness of laws and consequences of illegal activities; and
- ♦ Slow economic development in coastal areas and lack of livelihood alternatives for fishers and those dependent directly on coastal resources.

ROLE OF ENFORCEMENT IN COASTAL RESOURCE MANAGEMENT

With the passage of the 1991 Local Government Code and 1998 Fisheries Code, a broad range of powers and responsibilities were devolved to LGUs as the primary unit of governance for CRM in the Philippines. In order to exercise these powers and assume these responsibilities, CRM must be incorporated as a basic service of local government like any other services for health, education, and solid waste management. The CRM process adapted for Philippine local government (Figure 2; see also *Guidebook 3: Coastal Resource Management Planning*) consists of 5 phases of basic service delivery. This process provides many inputs and specific actions relevant to coastal law enforcement.

In Phase 1 (Figure 2), key issues are identified and prioritized and the condition and uses of coastal resources assessed. Illegal activities in municipal waters commonly identified during community consultations in Phase 1 include the use of dynamite, cyanide, and fine mesh nets for fishing and the intrusion of commercial fishing in municipal waters. A wide range of other illegal activities may be occurring as illustrated in Figure 1; however, LGUs and coastal communities may not always be as aware of these types of violations or their destructive consequences. A CRM plan is formulated in Phase 2 to address the key issues with a range of strategies that are implemented in Phase 3 through legislation, regulation, and coastal law enforcement. Coastal municipalities having completed Phases 1 to 3 need to monitor the implementation of their CRM plans and programs and report on the incidence of illegal activities in the LGU as well as the success of other interventions as part of monitoring and evaluation in Phase 4. Finally, in Phase 5,

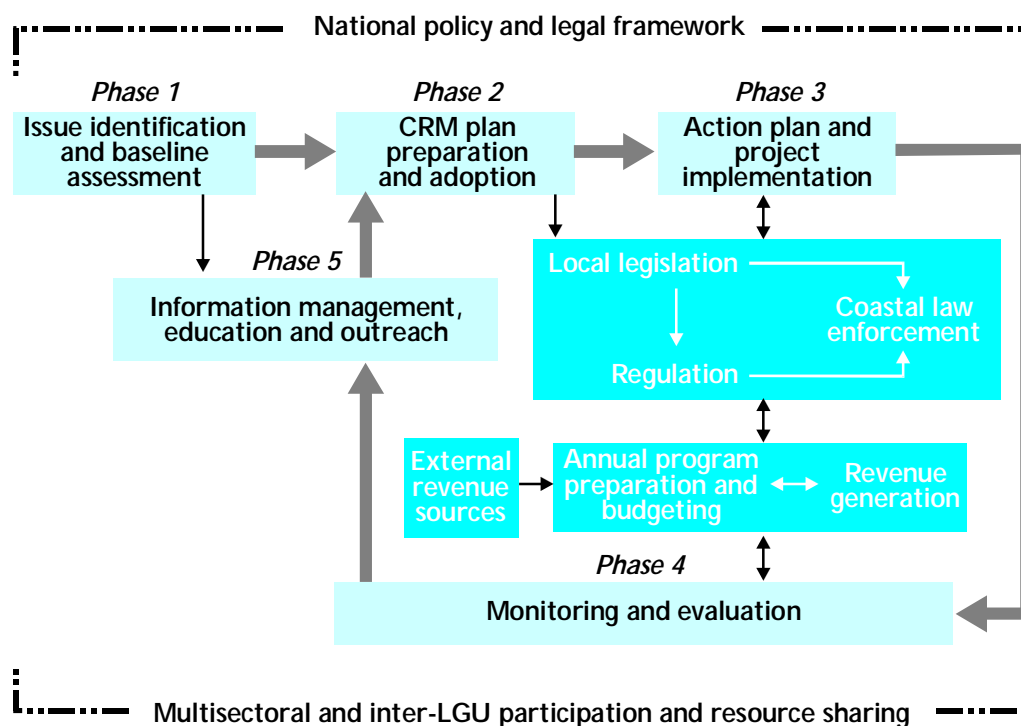


Figure 2. Coastal resource management process adapted for the Philippine local government.

information and data gathered and stored must be used for planning future coastal law enforcement operations and other strategic interventions. Education and outreach programs should include public dissemination and awareness of national laws, local ordinances, and regulations, as well as information campaigns on CRM best practices.

The overall result of a well planned and implemented CRM program is sustainable benefits from coastal resources being accrued by the greatest number of people. CRM also provides for the systematic allocation of resource use rights in a fair and equitable manner to coastal stakeholders. In absence of this system, open access and coastal resource use conflicts will continue to promote unsustainable use. As a result, compliance with policies and laws is eroded in an open access system as the social norms dictate that: “if I don’t do it, someone else will.” Furthermore, a lack of appreciation of the benefits, both direct and indirect, derived from coastal resources, promotes a lack of appreciation for the benefits of compliance with policies and laws that are designed to protect these benefits for the common good. For this reason, CRM plans and programs must incorporate a variety of strategies, especially coastal law enforcement, for successful implementation.

GUIDING PRINCIPLES AND FRAMEWORK FOR COASTAL LAW ENFORCEMENT

The phrase “law enforcement” usually invokes the image of uniformed officers arresting people, often through the application of force. For purposes of CRM, it is necessary to conceptualize law enforcement in much broader terms. Improving coastal law enforcement is more than enhancing the capacity of law enforcement officers to apprehend violators. It involves application of a broad range of approaches by different institutions as well as coastal stakeholders. Oposa (1996) articulated four principles of effective environmental law implementation that can be applied to coastal law enforcement. These principles include:

- 1. *Law is an agreement of minds or a “social product” that must be deemed desirable and supported by a mental and emotional agreement by individuals and society at large.*** For the law to be implemented, individuals and the society at large must fully understand and appreciate the reason behind the law. In appreciating the “common good” which the law seeks to promote, this social product will be deemed desirable and supported by a mental and emotional agreement on the part of individuals and society.
- 2. *Legal marketing or selling the law is necessary to promote voluntary compliance.*** The law or “social product” must be “marketed” to legitimize and promote the desired mode of conduct. Through information, education, and communication (IEC) people are made aware of the consequences of their actions and the corresponding administrative, legal, and judicial sanctions that would result when the law is violated.
- 3. *Sociocultural sensitivities and pressure points must be considered in the manner used for implementing the law.*** Specific cultural attributes must be understood and incorporated into the design of enforcement approaches such as the highly personal nature of relationships and transactions, debt-of-gratitude or *utang na loob* and loss of face or *hiya* values.
- 4. *Swift, painful, and public punishment must be carried out in order to modify behavior and serve as a deterrent.*** Prosecution of violators must be carried to the fullest extent of the law possible. The process of judicial prosecution serves as a tool for behavioral change. The judicial process must in turn be supplemented with IEC to make people aware that deviating from conduct that promotes the social good carries a penalty.

These principles can be incorporated into a framework for coastal law enforcement that relates coastal law enforcement interventions to the desired result of compliance with management measures (Figure 3). Law enforcement is viewed as a variety of interventions that government may rely upon to achieve compliance with requirements of the law. These interventions can be summarized as forming a continuum of activities ranging from “soft” preventive measures such as public education to “hard” sanctions imposed by apprehension, prosecution, and conviction.

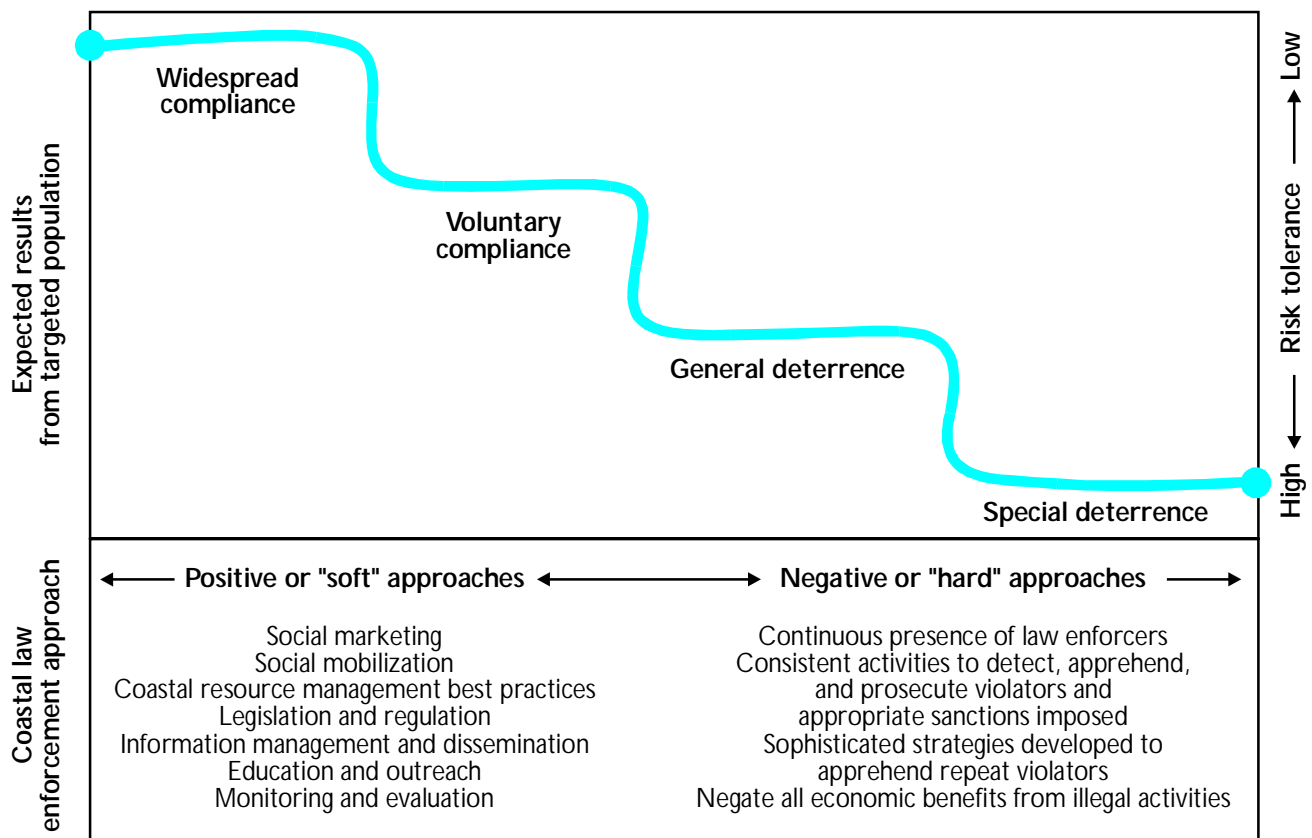


Figure 3. Coastal law enforcement framework.

Soft enforcement approaches promote voluntary compliance with the requirements of the law without going to the court. Soft enforcement focuses on the social and cultural dynamics of compliance that can be used to: (1) sustain widespread compliance, (2) encourage voluntary compliance, and (3) achieve general deterrence. When widespread compliance is achieved, target sectors have an adequate level of knowledge and attitude on the issues and behave within the bounds of socially accepted practices and legal requirements.

Under some conditions, voluntary compliance is only achieved because of the absence of any other logical reason for not complying; conversely, the reason for complying is also unclear. This condition exists when the level of knowledge or attitude on an issue is inadequate such as after the passage of a new law and before the issuance of the corresponding implementing rules and regulations or when regulatory measures described in the law or administrative issuances are unclear, insufficient, or conflicting. The law enforcer is in a disadvantageous position under these conditions and law enforcement efforts may be easily dismissed in the court system.

Soft coastal law enforcement approaches are also required when compliance is only achieved because of the presence of external factors such as police patrolling. In this condition there is compliance but it is involuntary which may lead to non-compliance if the external factors are withdrawn or absent. This condition exists because probable violators can bank on other reasons or convenient excuses for not complying. In this case, a law enforcement intervention geared towards achieving general deterrence is applicable.

Negative or “hard” enforcement uses legal sanctions imposed by a court or regulatory authority for deterrence. Hard enforcement approaches have one objective, that is, to identify, locate, and suppress the violator using all possible instruments of law. It involves the process of developing sophisticated strategies to apprehend repeat violators and negate all economic profits and benefits from illegal activities. Law enforcement activities are directed to a specific violator or violation. In these cases, the law enforcement approach to persistent violators must be swift, painful, and public. Swift means it should be directed to a specific and pre-identified target. It should be painful financially and psychologically and it should be public so that other people will be aware of the consequences of the offences.

A complete absence of measures supporting law enforcement is likely to result in widespread lack of compliance with resource management measures and a high level of illegal and destructive activity. Effective use of soft measures, such as IEC campaigns, can be expected to achieve a certain level of voluntary compliance as portions of the population perceive it to be in their own best interest to obey the law. Voluntary compliance will lower the level of illegal activity, but not necessarily to a point that assures preservation of coastal ecosystems and sustainable use of resources.

Hard coastal law enforcement measures are needed to achieve a level of general deterrence, a situation where much of the targeted population will abstain from illegal activity. These measures are aimed at creating a widely held perception that the probability of apprehension for illegal activity is high and the cost of committing violations exceeds any expected short-term benefits to potential violators. Nevertheless, law enforcement strategies appropriate for achieving general deterrence are not expected to eliminate illegal activity completely. There will always be some people who believe they can avoid detection and apprehension and who perceive that the benefits to be derived from illegal behavior are large enough to accept the risk of possible legal sanctions. The level of illegal activity by these “hard core” violators can be minimized, however, by using an integrated and multisectoral approach to coastal law enforcement.

THE NEED FOR AN INTEGRATED, MULTISECTORAL APPROACH TO COASTAL LAW ENFORCEMENT

Coastal law enforcement authority, responsibility, and capability are highly fragmented and increasingly decentralized in the Philippines. LGUs are mandated to enforce both local ordinances

and national laws under the 1991 Local Government Code (RA 7160). Identification of fisheries and other CRM-related violations requires knowledge of a specialized body of law. Direct interventions to stop illegal fishing and certain types of marine habitat destruction require special waterborne policing and forensic skills. Deterring illegal activity in coastal waters also requires employment of relatively expensive patrol vessels, command and control equipment, and fuel. While coastal municipalities and cities possess broad authority, they lack trained enforcement personnel, equipment, and operating budget to effectively carry out coastal law enforcement operations in their municipal waters which may cover an area as large as or even larger than the land area of the municipality.

National government agencies (NGAs) with significant coastal law enforcement roles include the Bureau of Fisheries and Aquatic Resources (BFAR), the Philippine National Police (PNP), the Philippine National Police Maritime Group (PNP-MG), and the Philippine Coast Guard (PCG). These agencies and all other NGAs with enforcement mandates are authorized to enforce fisheries laws under the 1998 Philippine Fisheries Code (RA 8550). Other national agencies provide specialized support or assistance to these four. Overall, no single NGA possesses adequate numbers of trained personnel, resources, or seaborne assets necessary to enforce CRM-related laws.

This fragmented and decentralized jurisdictional context poses special challenges for coastal law enforcement. Significantly, no single government institution (national or local) possesses the jurisdiction, technical competence, and resources needed to conduct sustained coastal law enforcement operations, particularly seaborne operations. Coastal law enforcement will only be effective, therefore, when national agencies and local governments take an integrated approach, employing multiple strategies and available resources in a coordinated and cooperative manner. This guidebook discusses strategies that can be applied using a multisectoral coastal law enforcement approach.

chapter 2

Legal and institutional context for coastal law enforcement

National laws, administrative issuances, and international treaties and agreements establish the legal and policy framework for CRM in the Philippines. These legal instruments are implemented by means of a wide range of administrative orders, circulars, or memoranda issued by the President or the concerned executive department or agency. It is within this legal framework that NGAs and LGUs exercise powers and assume responsibilities pursuant to their mandates under the law. While these laws are comprehensive in scope, poor understanding of the laws and institutional mandates coupled with fragmented enforcement efforts currently limit implementation.

This chapter explains the legal framework of coastal laws and institutions mandated to enforce them. (see *Guidebook 2: Legal and Jurisdictional Framework for Coastal Management* for a detailed discussion). Coastal laws discussed in this chapter cover provisions that prohibit or regulate activities affecting the coastal and marine environment and illegal activities that commonly occur in the coastal zone and municipal waters. The institutional mandates of NGAs, LGUs and other relevant sectors of the society are described relative to coastal law enforcement.

LEGAL FRAMEWORK FOR COASTAL LAW ENFORCEMENT IN THE PHILIPPINES

Legal bases for coastal law enforcement may be traced from international treaties and agreements that the Philippines is party to, national laws promulgated by the Executive and Legislative Branches of government, landmark decisions of the Supreme Court, and local ordinances that translate these agreements, laws, and jurisprudence in very specific applications.

International treaties and agreements

The Philippine Government supports global efforts to protect the environment by being a State Party to several international treaties, as well as global programs of action on various aspects of the environment (see *Guidebook 2: Legal and Jurisdictional Framework for Coastal Management*). Some of these treaties have significant implications to resource management programs at national and local levels. For example, the United Nations Convention on the Law of the Sea (UNCLOS) brings the Philippines within the international legal regime recognized by the community of nations on the proper management of the ocean. CRM is one of the major strategic interventions recommended in Chapter 17 of Agenda 21 of the 1992 United Nations Conference on the Environment and Development the international blueprint for sustainable

development. Philippine Agenda 21 is the local blueprint for implementation of the provisions of Agenda 21.

The Convention on International Trade in Endangered Species (CITES) is one treaty which is significant to coastal law enforcement, as it requires the cooperation of local government authorities. CITES is a treaty between 151 states which have agreed to control or prohibit the international trade of over 40,000 species of animals and plants, including any products made from them, depending on the extent of the threat to their survival as a species. The Parties to the treaty apply a system of permits and certificates, which are issued when certain conditions are met and which have to be presented when consignments of specimens of species listed under the agreement leave or enter a country. Since the sources of these flora and fauna are directly within the jurisdiction of local government, LGUs are required to prevent the collection, trafficking of, and trade in the species listed under CITES. With respect to the marine environment, this includes marine mammals; shelled mollusks; and all stony corals (see Chapter 3).

International treaties form part of Philippine laws as provided for in the Philippine Constitution of 1987. They are mainstreamed in Philippine laws and jurisprudence when translated to Republic Acts, Executive Orders, Administrative Orders, Memorandum Circulars, and other instruments of law.

National laws

The system of governance in the Philippines is based on a hierarchy of executive and legislative mandates on both local and national levels. Table 1 shows the hierarchy of laws.

Table 1. Types of issuances in hierarchy of importance.

- | |
|---|
| <ul style="list-style-type: none"> ♦ Constitution ♦ Republic Acts and International Treaties ratified by Philippine Congress ♦ Commonwealth Acts, Public Acts, <i>Batas Pambansa</i> ♦ Presidential Decrees issued during the Marcos era and Executive Orders of President Aquino ♦ Presidential Decrees and Executive Orders not included above; Letters of Instruction and Presidential Proclamations ♦ Administrative Orders ♦ Local Ordinances |
|---|

At the apex of the hierarchy of laws is the 1987 Constitution, which gives general guidance for the management and use of all natural resources in the Philippines. The 1987 Constitution provides general policies for protection and conservation of the environment, and the use of natural resources (Table 2). Generally all laws, rules, and other acts of government must be consistent with the provisions of the Constitution. In case of inconsistency, the provisions of the Constitution shall govern (Art. 7, The Civil Code of the Philippines) and the law, rule, or act shall be regarded as invalid.

Table 2. Philippine Constitution: Provisions related to the environment, subsistence fishers, and people's participation in governance.

Art. II, Sec. 15 & 16: The State shall protect and promote the right to health of the people; the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

Art. XII, Sec. 2: The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State shall protect the nation's marine wealth, ... and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.

Art. XIII, Sec. 7: The State shall protect the rights of subsistence fishermen, especially of local communities to the preferential use of the communal marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and re-search... and other services.

Art. XIII: The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged.

Republic Acts (RAs), that include ratification of international treaties entered into by the Philippine Government, Commonwealth Acts, Public Acts, and *Batas Pambansa* are national laws that emanate from the Legislative Branch. Presidential Decrees (PDs) issued during the incumbency of President Ferdinand E. Marcos and Executive Orders (EOs) of President Corazon C. Aquino are also national laws considered to have emanated both from the legislative and executive branches of government. Other PDs, EOs, Letters of Instruction (LOIs), and Presidential Proclamations are national laws issued by the Executive Branch, more specifically, the President of the Republic.

Administrative Orders (AOs) issued by the various Departments in the Executive Branch of government such as the Department of Environment and Natural Resources (DENR) and the Department of Agriculture (DA), and others and the Implementing Rules and Regulations (IRR) made by these departments legally form part of the law itself, for as long as they do not modify or contravene the provisions of the same law or the Constitution.

Judicial decisions which interpret the meaning of the law, or settle any controversy with respect to the application thereof, effectively become part of the law and thus have the same binding force, unless the law is amended or modified in such a manner as to require a new interpretation. Courts, however, cannot make decisions, which in effect seek to enact new laws; they can only interpret or apply existing laws. Likewise, they cannot make interpretations unless in the course of a decision issued in an actual case filed before it. In the absence of a judicial interpretation, the interpretation of the law contained in executive issuances that implement them is considered authoritative. Where two or more executive agencies have conflicting interpretations, an opinion of the Secretary of Justice as to the correct legal interpretation may settle the issue among the contesting agencies. Ultimately, however, it is only the court, which can make an interpretation, which is valid and binding upon all.

National laws relevant to coastal law enforcement are listed in Table 3. The two most important bases for coastal law enforcement are the Local Government Code (LGC) of the Philippines (RA 7160) signed in 1991 and the Fisheries Code of the Philippines (RA 8550) signed in 1998. The LGC provides the framework for a decentralized system of government where

Table 3. National laws with provisions relative to coastal law enforcement.

National law	CRM-related provisions
Local Government Code (RA 7160)	<ul style="list-style-type: none"> Empowers municipalities to enforce fishery laws in municipal waters including the conservation of mangroves Devolves authority, powers, and responsibilities of governance including legislative and revenue generating functions to provinces, cities, and municipalities Devolves the responsibility for CRM, solid waste management, and pollution control to local government as a basic service Defines municipal waters as within the territory of the municipality or city
Philippine Fisheries Code (RA 8550)	<ul style="list-style-type: none"> Authorizes the PNP, PNP-MG, PCG, BFAR, and other NGAs to enforce provisions of the Code Protects the rights of the fisherfolk, especially of the local communities with priority to municipal fisherfolk, in the preferential use of municipal waters Establishes integrated coastal area management as a national strategy for the development, management, and conservation of fisheries and aquatic resources Institutionalizes community participation through establishment of Fisheries and Aquatic Resources Management Councils (FARMCs) Reinforces CRM as primary mandate for LGU Sets forth rules and regulations for the sustainable use of coastal resources Provides for the declaration of marine protected species
National Integrated Protected Areas System Act (RA 7586)	<ul style="list-style-type: none"> Establishes national protected areas of special biological and cultural significance in the Philippines Places management of national protected areas under a multisectoral body called the Protected Area Management Board (PAMB), chaired by DENR
Toxic and Hazardous Waste Act (RA 6969)	<ul style="list-style-type: none"> Establishes rules and regulations governing the importation, manufacture, processing, sale, distribution, transportation, use, storage, and disposal of toxic and hazardous wastes
National Pollution Control Decree (PD 984)	<ul style="list-style-type: none"> Provides for pollution control and penalties for the discharge of untreated or inadequately treated industrial effluents in coastal waters
Ecological Solid Waste Act (RA 9003)	<ul style="list-style-type: none"> Penalizes improper waste disposal, to provide for ample services to regulate and dispose of household wastes

(continued)

Table 3. (continued)

National law	CRM-related provisions
Water Code of the Philippines (PD 1067)	<ul style="list-style-type: none"> States that the use of the banks of rivers and streams and shores of seas and lakes throughout their entire length and within a distance of 3 m in urban areas, 20 m in agricultural areas, and 40 m along forest areas along their margins is subject to public easement where building of structures of any kind is prohibited
Philippine Environment Code (PD 1152)	<ul style="list-style-type: none"> Provides for maintenance of air and water quality, land use, and conservation Places exploitation of fisheries, wildlife, forest and mineral resources under the management of the DENR
Forestry Code (PD 705)	<ul style="list-style-type: none"> Establishes provisions for forest management including mangroves. The Fisheries Code, and National Internal Revenue Code, and EO 263 provide additional provisions for mangrove forest management
Environmental Impact Statement System (PD 1586)	<ul style="list-style-type: none"> Establishes the EIS System as a planning and regulatory system for programs, projects, and development activities that might endanger the environment; requires EIS for such activities in environmentally critical areas and for environmentally critical projects
Public Land Act of 1936	<ul style="list-style-type: none"> An old yet still enforceable law governing the use of foreshore lands, EO 192 gives jurisdiction over foreshore areas to DENR; and PD 1198 requires rehabilitation of damaged foreshore areas to their original condition
Marine Pollution Law (PD 979)	<ul style="list-style-type: none"> Prohibits discharge of oil, noxious, gaseous, and liquid substances, refuse matter of any kind, and other harmful substances from any maritime vessel or man-made structures or establishment in Philippine territorial or inland navigable waters or its bank
Sanitation Code (PD 856)	<ul style="list-style-type: none"> Provides prohibitive guidelines on waste disposal from establishments, treatment plants, septic tanks, and other substances that may cause air and water pollution by establishments and pose direct or indirect danger to health of the public
Mining Act (RA 7942)	<ul style="list-style-type: none"> Provides restrictions on areas closed to mining such as old growth or virgin forests, proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, provincial/municipal forest, parks greenbelts, game refuge, and bird sanctuaries as defined by law and in areas prohibited by NIPAS and penalties Provides regulatory system for sand and gravel mining permits Provides regulatory mechanisms for mine wastes and mine tailing management

(continued)

Table 3. (continued)

National law	CRM-related provisions
	<ul style="list-style-type: none"> Provides penal provisions on illegal exploration and violations on the terms and conditions of environmental compliance
National Building Code (RA 6541)	<ul style="list-style-type: none"> Provides LGUs general guidelines to base safety measures on design, construction, and use of building or structure to protect communities from environmental hazards and pollution
Anti-Child Abuse Law (RA 7610)	<ul style="list-style-type: none"> Provides guidelines on protection against child abuse, exploitation, and discrimination and provided penalties thereof
Anti-Child Labor Law (RA 7658)	<ul style="list-style-type: none"> An amendment to the child abuse law that specifies specific guidelines on employment of children below 15 years of age and penalties provided under RA 7610
Anti-Graft and Corrupt Practices Act (RA 3019)	<ul style="list-style-type: none"> Specifies penalties against unlawful practices of public officials such as directly or indirectly requesting or receiving favors or gifts or other material benefit from persons or entities that will compromise the integrity of their office
Code of Conduct of Public Officials (RA 6713)	<ul style="list-style-type: none"> Guidelines on the conduct required of public officials, their relationship with the public, to include public trust, confidentiality of information, acting on reports, requests for assistance, complaints, granting incentives and rewards for exemplary service and provides penalties for violations thereof
Dangerous Drugs Act (RA 6425)	<ul style="list-style-type: none"> Provides penalties for possession, importation, sale, administration, delivery, distribution, and transportation of prohibited and regulated drugs; maintenance of dive or resorts for drug dealers and users
Philippine Merchant Marine Rules and Regulations (PMMRR)	<ul style="list-style-type: none"> Regulates the maritime profession Provides guidelines for responsible seamanship Provides safety measures for maritime vessels and seafarers Provides basis for issuance of Maritime Industry Authority and Philippine Coast Memoranda regulating the maritime industry

LGUs, being at the forefront of development, become stewards of the environment. The Fisheries Code, as a more recent and specialized law, reinforces this by providing LGUs mechanisms by which municipal waters may be managed more effectively.

A number of provisions in the Fisheries Code reinforce and further define the powers and authority of LGUs for the management of coastal resources and municipal waters devolved under the LGC (see *Guidebook 2: Legal and Jurisdictional Framework for Coastal Management*). Under the Fisheries Code, local legislative bodies may enact ordinances that prohibit or limit fishing in

areas deemed overexploited or requiring rehabilitation. In addition, a broad range of regulatory functions is assigned to the LGU as well as the enforcement of all fishery laws, rules, and regulations.

Although the primary mandate for coastal law enforcement was devolved to LGUs under the LGC and the Fisheries Code, the intricacies of other relevant national laws raise the need for NGAs to provide technical and logistical support and further capacitate the LGUs to effectively enforce these laws.

Local ordinances

LGUs have certain legislative powers, which are exercised through their respective local legislative councils, or *Sanggunian*. The LGC specifically mandates the *Sanggunian* to legislate ordinances that will protect the environment.

The extent to which LGUs can validly legislate is defined by law; and since they derive their legislative powers for laws enacted by Congress, LGUs cannot promulgate ordinances which violate the Constitution, any existing laws passed by Congress, or executive issuances promulgated by the Executive Branch. However, local ordinances may expound on laws to specifically regulate activities that will adversely affect local environmental conditions as long as they comply with the following requirements in order to be valid (see *Guidebook 2: Legal and Jurisdictional Framework for Coastal Management*):

- ♦ It must not contravene the Constitution or any law;
- ♦ It must not be unfair or oppressive;
- ♦ It must not be partial or discriminatory;
- ♦ It must be general and consistent with public policy; and
- ♦ It must not be unreasonable.

Local legislation are passed through a series of community consultations, public hearings, and review by higher authorities. *Barangay* ordinances are reviewed by the municipal council while municipal ordinances are reviewed by the provincial board before they are passed into law.

INSTITUTIONAL MANDATES FOR COASTAL LAW ENFORCEMENT

The variety of coastal laws make their enforcement dispersed to various government agencies at both national and local levels. For this reason, cooperation between institutions is essential in planning and implementing effective coastal law enforcement.

National government mandates for coastal law enforcement

The NGAs with mandates for coastal law enforcement consist of uniformed and non-uniformed agencies. They cover the entire length of law enforcement continuum from prevention, which is largely information, education, and communication to correction, that involve apprehension, prosecution, and imposition of penalty. The NGAs listed in Table 4 are key agencies with coastal law enforcement mandates.

Table 4. Coastal law enforcement mandates of national government agencies.

Department of the Interior and Local Government (DILG) has two sectors, the Local Government Sector and the Interior and Public Safety Sector, created under RA 6975 reorganizing the DILG. Under the Local Government Sector, the DILG is responsible for planning, implementing, monitoring, and evaluating plans, programs, and policies pertaining to local autonomy, decentralization, and local governance while under the Interior and Public Safety Sector it is responsible for planning and implementing programs on peace and order and public safety. The DILG may act upon any formal complaint against local government officials and the police who are remiss in their law enforcement duties. It also administers the PNP. DILG is headed by a *Secretary* who is represented in all regions by the *Regional Director* and in all provinces by the *Provincial Director*.

Philippine National Police (PNP) is mandated to enforce all laws relative to lives and properties, investigate and prevent crimes, effect arrest, bring offenders to justice, issue licenses for possession of firearms and explosives. It also regulates transport of ammonium nitrate fertilizer, which is commonly used in blast fishing. The PNP is headed by the *Chief, PNP* who is represented in all regions by the *Regional Director*, in all provinces by the *Provincial Director*, and in major metropolitan areas by the *District Director*. The PNP has various support units such as the PNP Maritime Group, the PNP Narcotics Group, Criminal Investigation Group, Intelligence Group, Crime Laboratory, Aviation Group, and Traffic Management Group, among others. Each of the major support unit is headed by a *Director* who is represented by *Regional Officers*.

PNP Maritime Group (PNP-MG) is vested with the authority to perform all police functions "over Philippine territorial waters and rivers, coastal areas from the shoreline to one mile inland to include ports and harbors and small islands of two miles in length or diameter with 1,000 population." In areas where there are no prosecutors, PNP Maritime Officers may act as a public prosecutor. Many police functions of the Philippine Coast Guard are now absorbed by the PNP (Sections 24 & 35, RA 6975). The Maritime Group is tasked to conduct the following five major functions:

1. Organize, train, equip, and maintain units and personnel for effective police operation in territorial waters
2. Prevent and suppress violations of laws and ordinances within Philippine waters, rivers, lakes, and along coastal areas (including ports, harbors, and small islands)
3. Conduct anti-illegal fishing operations, especially against dynamite/explosives, toxic substances, or other destructive methods
4. Recommend the promulgation of ordinances relative to the protection of life and property at sea
5. Perform other duties as directed by the Chief, PNP.

The PNP-MG is headed by a *Director* and represented in major regional coastal areas by a *Regional Officer* and in major ports by the *Maritime Station Commander*.

Philippine Coast Guard (PCG) is responsible for the enforcement of Philippine environmental laws on the high seas and to ensure safety at sea. It also ensures the enforcement of marine anti-pollution laws. The

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Table 4. (continued)

police functions of the PCG still include the enforcement of all maritime laws and other applicable laws on all bodies of water in Philippine jurisdiction tributaries and the high seas (RA 5173). The PCG has five main functions: (1) maritime safety administration, (2) marine environmental protection, (3) maritime search and rescue, (4) maritime law enforcement, and (5) maritime operations. The PCG is headed by a *Commandant* who is represented in major coastal regions by the *District Commander* and in major ports by the *Station Commander*.

DA-Bureau of Fisheries and Aquatic Resources (DA-BFAR) is directly responsible for the enforcement of all laws, rules, and regulations governing the conservation and management of fishery resources *except* in municipal waters. DA-BFAR is also responsible for the settlement of conflicts of resource use and allocation, in consultation with the National FARMC, LGUs and local FARMCs. DA-BFAR is headed by a *Director* represented in the region by the *Regional Director*.

The Philippine Navy (PN) is one of the law enforcement agencies authorized by RA 8550 to enforce all fisheries laws, rules and regulation. It is one of the three major service command of the Armed Forces of the Philippines (AFP); the others are the Philippine Air Force (PAF) and Philippine Army (PA). The Navy is the only major service command that developed an environmental management branch under its Civil Military Operations (CMO) with local branches in all naval camps in the Philippines. The main responsibility of this branch is to assist LGUs and other government agencies and NGOs in coastal environmental conservation and protection efforts such as mangrove planting, coastal and underwater cleanup, artificial reef laying. The CMO provides direction and coordinates maritime law enforcement operations of all other branches of the Navy. The Navy is headed by a *Flag Officer-In-Command* (FOIC) and is represented in the naval camps by the *Commander*, Naval Forces.

Department of Environment and Natural Resources (DENR) is primarily responsible for issuance of policies, regulatory functions, and programs related to the coastal environment with a special focus on foreshore areas, mangrove management, and associated terrestrial and aquatic plants and animals found within the marine zone. DENR is also responsible for administration and supervision of all national protected areas declared or proclaimed by the President or legislated by Congress. DENR has not directly involved itself in fishery regulation, research, or enforcement functions, which are presently exercised by BFAR. Despite the passage of the LGC, the DENR has retained many environmental management functions through the Office of the Secretary (OSEC) or through the different line Bureaus such as the Environmental Management Bureau (EMB). DENR is headed by a *Secretary* who is represented in the region by the *Regional Executive Director*.

Department of Justice (DOJ) through the National Prosecution Office (NPO) provides legal assistance in the filing and/or prosecution of all illegal fishing cases in court and through the National Bureau of Investigation (NBI) conducts consultation with coastal LGUs on law enforcement matters (Memorandum Circular No. 44 Series of 1999). DOJ is headed by a *Secretary*. NBI is headed by a *Director* who is represented in the region by the *Regional Director*. NPO is headed by a *State Prosecutor* represented in the region by the *Regional State Prosecutor* and in the province by the *Provincial Prosecutor*.

Department of Social Welfare and Development (DSWD) is responsible for enforcing laws on the protection of women and minors from abuse, discrimination, and exploitation, that is prevalent in the fishing industry. DSWD takes custody of children employed in commercial fishing. The DSWD is headed by a *Secretary* represented in the region by the *Regional Director*.

Department of Labor and Employment (DOLE) is responsible for enforcing the Labor Code of the Philippines and all other labor-related laws. DOLE is headed by a *Secretary* represented in the region by the *Regional Director*.

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Table 4. (continued)

Civil Service Commission (CSC) as a constitutional official may act upon complaints of the public regarding civil servants who violate laws on the Code of Conduct for Public Officials. The CSC is headed by a *Chairperson* represented in the region by the *Regional Director*.

The Office of the Ombudsman is responsible for investigating and prosecuting complaints against elected or appointed public officials who violate the Graft and Corrupt Practices Act. The Ombudsman is represented by three *Deputies* for each of the major islands/groups of the Philippines namely Luzon, Visayas, and Mindanao.

Philippine Information Agency (PIA) is responsible for all communication and information needs of all government agencies. The PIA provides the communication links between the NGAs plans and programs and the community who will benefit from them. Through the Office of the Press Secretary (OPS) the PIA may endorse broadcast development modules to the national association of broadcasters called *Kapisanan ng mga Brodkaster ng Pilipinas* (KBP) for free airing on TV and radio stations in exchange for tax breaks. Print releases may be channeled through the Philippine News Agency (PNA). The PIA is headed by a *Director General* represented in the region by *Regional Directors*.

The Supreme Court in many occasions conduct information dissemination and education campaign on environmental laws to members of the judiciary. The Chief Justice heads the Supreme Court.

Regional and Municipal Trial Courts are mandated to impose appropriate penalty for offenses committed within their jurisdiction. The *judges* administer the courts

Local government mandates for coastal law enforcement

LGUs have the primary mandate for enforcement of fisheries and other CRM-related laws within their territories. For coastal municipalities and cities, this includes coastal law enforcement in municipal waters. Primary responsibility for coastal law enforcement is assigned to local government officials (Table 5) and the *Sanggunian*, or local legislative council of the LGU. The LGC specifically mandates some local officials to play important roles in supporting or facilitating coastal law enforcement.

Table 5. Coastal law enforcement mandates of local government officials.

The Punong Barangay. The *Barangay* Captain shall “(1) enforce all laws and ordinances which are applicable within the *barangay*; (2) enforce laws and regulations relating to pollution control and protection of the environment” (RA 7160 Sec. 389)

The Municipal/City Mayor. The Mayor shall “enforce all laws and ordinances relative to the governance of the municipality and the exercise of its corporate powers provided for under Sec. 22 of this code, implement all approved policies, programs, projects, services, and activities of the municipality and, in addition to the foregoing, shall issue such executive orders as are necessary for the proper enforcement and execution of laws and ordinance” (RA 7160 Sec. 444(b)(2)(iii))

The Provincial Governor. The Governor shall “enforce all laws and ordinances relative to the governance of the province, and shall ensure that the acts of component cities and municipalities are within the scope of their powers; issue executive orders for the faithful and appropriate enforcement and execution of laws and ordinances; adopt measures to safeguard and conserve the land, mineral, marine, forest, and other resources” (RA 7160 Sec. 444(b)(3)(vii); Sec. 465(b)(2)(i and iii); (b)(3)(v))

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Table 5. (continued)

The *Sangguniang Panlalawigan/Panlungsod/Bayan*. Provincial, city, and municipal legislative bodies are responsible for the protection of the environment and imposition of appropriate penalties for dynamite fishing and other forms of destructive fishing; illegal logging and smuggling of logs; smuggling of natural resources products and endangered species of flora and fauna; slash-and-burn farming; and other activities which result in pollution, acceleration of eutrophication of rivers and lakes or of ecological imbalance which endanger the environment (RA 7160 Sec. 447(1)(v), 458 Sec (1)(vi), Sec 468 (1)(v))

The Planning and Development Coordinator. Provincial, city, and municipal planning officers are responsible for the overall integration and coordination of economic, social, physical, and other development plans and policies undertaken by the various agencies and departments operating within the LGU. The planning officer prepares the comprehensive development plans for the local development council (LDC), and serves as secretariat to the LDC as well. The planning officer is also responsible for monitoring and evaluating all projects and programs of the LGU (RA 7160 Sec. 476(b))

The Environment and Natural Resources Officer of the provincial, municipal, or city government is appointed by the Mayor or Governor, and is subject to confirmation by the relevant *Sanggunian*. One of the most important duties of the ENRO is to coordinate with government agencies and NGOs in the implementation of measures to prevent and control land, air, and water pollution with the assistance of the DENR. The ENRO is also tasked with establishing, maintaining, protecting, and preserving watersheds and mangroves under the LGC. Since the ENRO is additionally tasked with providing “frontline” delivery services, especially during the renewal and rehabilitation of the environment due to “man-made” and natural calamities, his or her role in coastal resource protection is strongly defined. Although the ENRO position is an optional appointment for provincial, city, and municipal governments, it is highly recommended that the LGU institutionalize this position to address the many environment-related including CRM-related issues that will continue to increase in coastal LGUs in the future. Furthermore, some municipalities are now establishing CRM units within the ENRO or separate CRM offices for CRM specific issues (RA 7160 Sec. 484(b))

The Agriculturist formulates measures for approval by the legislative bodies, and supports the local chief executive (LCE) by providing direct technical assistance for the delivery of basic services relative to agricultural services. It should be noted that fisheries – within municipal waters – is included under the overall scope of agriculture. Specifically, agriculture officers are responsible for aquaculture and marine products, as well as enforcing rules and regulations affecting agriculture and aquaculture (RA 7160 Sec. 482(b))

The Legal Officer may provide legal assistance and support to the LCE in carrying out the delivery of basic services. The Legal Officer represents the LGU in all civil actions, and can be called upon by the LCE to draft ordinances and other legal instruments. When directed by the LCE, legal officers may initiate and prosecute in the interest of the LGU to uphold the law and protect human rights. The Legal Officer also reviews and submits recommendations on approved ordinances and executive orders (RA 7160 Sec. 481(b))

The Information Officer is mandated to formulate measures for the consideration of the *Sanggunian* and provide technical assistance and support to the Governor or the Mayor in providing information and research data required for the delivery of basic services. The Information Officer is also required to maintain effective liaison with the various sectors of the community on matters and issues that affect the livelihood and quality of life of the inhabitants and encourage support for programs of local and national government and other functions as prescribed by law or ordinance (RA 7160 Sec. 486(b))

(continued)

Table 5. (continued)

The Social Welfare Development Officer formulates measures to ensure basic service delivery. He/she implements appropriate measures to alleviate poverty and provides appropriate relief and crisis intervention for victims of abuse and exploitation (RA 7160 Sec 483(b))

The Health Officer formulates and implements policies, plans, programs, and projects to promote the health of people in the LGU. He/she executes and enforces all laws, ordinances, and regulations relating to public health. The Health Officer recommends the prosecution of any violation of sanitary laws, ordinances, and regulations, and inspects establishments enumerated in the Sanitation Code (RA 7160 Sec. 478(b))

Local PNP Chief of Police. Local PNP are under the operational supervision and control of the Local Chief Executive and are mandated to pursue all forms of law enforcement functions including coastal law enforcement (RA 8551 Sec. 62, Sec. 63, Sec 64). Under Rule 110, Section 5 of the Rules of Court, the police may act to prosecute a case in a Municipal Trial Court or Municipal Circuit Trial Court if there is no available fiscal. This authority, however, ceases upon actual intervention of the fiscal or upon elevation of the case to the Regional Trial Court.

Sangguniang Kabataan (SK). Although not expressly stated, SKs, being the representative of the largest sector of the society in the local government bureaucracy, play a vital role in CRM especially in the area of education and outreach which is important in the preventive aspect of coastal law enforcement. The youth sector through the SKs may be mobilized to achieve broad-based support in coastal management. Through a local ordinance, SKs may assume other functions not stated in the Code to include coastal environment-related roles (Sec. 426 (h))

Citizens, volunteer groups, and other interest groups such as municipal FARMCs, *Bantay Dagat*, and deputized fish wardens also play an important role especially in the preventive aspect of coastal law enforcement (Table 6). They may provide valuable assistance to regular uniformed police in areas of intelligence gathering and documentation as well as monitor or enhance public behavior or perception on law enforcement interventions. Although citizens and volunteer groups may conduct citizen's arrest on meritorious grounds, they cannot be armed and must avoid direct confrontation with violators when not assisted by uniformed law enforcers as violators may put up violent resistance.

In addition to policy and planning functions, MFARMC members may provide valuable assistance in a wide range of soft coastal law enforcement activities. Similarly, *Bantay Dagat*, or community-based coastal protection groups, may assist uniformed law enforcement officers in seaborne coastal law enforcement operations. Members of MFARMCs, *Bantay Dagat*, and other fisherfolk associations who have undergone training on law enforcement may be designated in writing by BFAR or the LGU as deputy fish wardens in the enforcement of the fishery laws, rules, and regulations. Similarly, these groups may also be tapped to conduct information and outreach programs of the LGU to achieve voluntary compliance.

Table 6. Roles of citizens, volunteer groups, and other interest groups in coastal law enforcement .

Citizenry. A citizen can make a citizen's arrest without a warrant under Rule 113, Section 5 of the Rules of Court on the following conditions:

- (a) When in his/her presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
- (b) When an offense has in fact just been committed, and he/she has personal knowledge of facts indicating that the person to be arrested has committed it; and
- (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he/she is serving final judgment or is temporarily confined while case is pending, or has escaped while being transferred from one confinement to another.

The ideal role of the citizenry in coastal law enforcement is to become an advocate of voluntary compliance and by serving as the eyes and the ears of the government in environmental protection.

Bantay Dagat/Deputized Fish Warden. *Bantay Dagat* originated as a volunteer, community-based organization to assist in coastal law enforcement. *Bantay Dagat* members may be deputized as fish wardens after receiving coastal law enforcement training. In some cities and municipalities, the *Bantay Dagat* has graduated to a regular unit of the LGU with paid staff, operating expenses, and land and seaborne assets. In these cases, such as the Cebu City *Bantay Dagat* Commission, the *Bantay Dagat* works together and collaboratively with local PNP, PCG, and other government institutions to plan and conduct coastal law enforcement operations.

Fisheries and Aquatic Resources Management Council (FARMC). Municipal and city FARMCs provide for active community participation in all aspects of CRM including coastal law enforcement. Members and officers may be deputized as fish wardens and environment and natural resources officers (ENROs) after the issuance of deputization papers by the appropriate institution (RA 8550 Chap. 3, Art. 2). The functions of municipal and city FARMCs include:

- ♦ Assist in the preparation of the municipal CRM plan;
- ♦ Monitor and evaluate CRM plan implementation;
- ♦ Recommend enactment of CRM-related ordinances to the *Sanggunian*;
- ♦ Assist in the enforcement of fishery laws, rules, and regulations in municipal waters; and
- ♦ Advise the *Sanggunian* on fisheries matters.

Leagues of LGUs and Federations of Local Elective Officials. Sections 491 to 510 of the LGC provide for the creation of the leagues of LGUs and elective officials at the *barangay*, municipal, city, and provincial level with the objective of ventilating, articulating, and crystallizing issues affecting their sector. Leagues of LGUs may provide a venue for discussing coastal law enforcement issues as well as a powerful ally in mobilizing broader support from the LGUs.

Civil Society. Sections 34 to 36 of the LGC of the Philippines give NGOs and POs the right to actively participate in local governance because they work closely with communities. Since NGOs and POs maintain constant and regular contact with local communities, they are in the best position to advance coastal law enforcement issues. LGUs may venture with NGOs and POs to promote ecological balance (RA 7160 Sec. 35) and may actually provide funds to pursue environmental projects (RA 7160 Sec. 36)

(continued)

Table 6. (continued)

Law Practitioners, Paralegal Groups. In meritorious cases, a private prosecutor or organized group of private practicing lawyers may be deputized by the DOJ or the LGUs to act as public prosecutors. The Integrated Bar of the Philippines and most of the law schools offer free legal assistance.

Media Groups. There are organized media groups tapped by the government to assist in information dissemination. One such group is the *Kapisanan ng mga Brodkaster ng Pilipinas* (KBP). The KBP is a national organization of all TV and radio stations all over the country with local chapters in all regions. Through the Office of the Press Secretary and the PIA, KBP makes its installations available to development-related broadcast modules produced by the government in exchange for tax breaks. Other media groups such as the Philippine Center for Investigative Journalism (PCIJ), Asian Institute of Journalism (AIJ) and the Catholic Media Network (CMN) provide special assistance to advance coastal management issues.

Academe. Public and private schools and universities have extended direct and indirect programmatic support to CRM such as the University of the Philippines, Silliman University, University of San Carlos, and Ateneo de Manila, among others. Academic institutions provide intermediate as well as long-term studies on coastal law enforcement interventions through the conduct of policy review and analysis, research support services, social mobilization, information management, curriculum development on coastal environmental protection.

Church Groups. Ecclesiastical groups of major denomination may be tapped to address issues with cultural and religious implications. Various churches have already incorporated environmental protection in their teachings and pastoral undertakings. The churches serve as a powerful medium to encourage voluntary compliance to laws because of its psychological, social, and spiritual appeal.

Other institutional arrangements

Inter-agency coordination. NGAs may establish collaborative agreements among themselves or with LGUs and NGOs to complement their functions. One example is the Memorandum of Agreement (MOA) signed in September 1995 between the DA, the PCG, PNP-MG, Environmental Management Bureau (EMB), Bureau of Customs (BOC), and Philippine Ports Authority (PPA) in the enforcement of fishery laws and regulations. Aside from the agencies already mentioned, special functions assigned to BOC and PPA specified in the MOA are:

Bureau of Customs allows unhampered access over customs zones to parties of the MOA relative to the enforcement of fishery laws, rules, and regulations. BOC is headed by a *Commissioner* represented by the *Customs Chief* in major ports.

Philippine Ports Authority also allows unhampered access to all ports, wharfs, piers, harbors, and other areas to parties of the MOA in the enforcement of fishery laws, rules, and regulations. The PPA is headed by the Administrator and represented in the major ports by the *Port Manager*.

On a regional scale, the Coastal Law Enforcement Alliance in Region 7 (CLEAR7) was established through a Memorandum of Understanding (MOU) signed in June 2000 between regional offices of DENR, DA-BFAR, DILG, PNP-MG, NBI, Cebu City *Bantay Dagat* Commission, and some NGOs. On a provincial scale, the Negros Occidental Provincial Fisheries Law Enforcement Agreement was forged by the province with the regional offices of the PPA, Department of Justice-National Prosecution Office (DOJ-NPO), PCG, PNP, PNP-MG, and PNP Aviation Security Office through an MOA in 1998.

Another form of inter-agency collaboration is through the creation of special bodies and task forces. Special bodies and task forces may be established by the Office of the President or any line agency under the Executive Branch or the PNP or the AFP. Some special bodies and task forces established by the Office of the President are the Presidential Committee on Illegal Fishing and Marine Conservation, Inter-Agency Task Force for Coastal Environmental Protection (IATFCEP), and the Cabinet Committee on Maritime and Ocean Affairs (CABCOM-MOA). The National Law Enforcement Coordinating Council (NALECC) was established by the National Police Commission (NAPOLCOM) to coordinate all agencies with law enforcement functions. NALECC is chaired by the PNP Chief.

Inter-LGU collaboration. Provincial, municipal, and city LGUs may form alliances to achieve a common goal of enforcing coastal laws. One example is the Coastal Law Enforcement Councils (CLECs) in Bohol where coastal LGUs formed themselves into three clusters based on congressional districts and established their respective law enforcement coordinating councils.

Substantial cost savings can be achieved through inter-LGU collaboration on coastal law enforcement. In Bohol, for instance, coastal municipalities through the support of the province share the costs for patrolling the municipal waters of neighboring municipalities and the cost of training coastal law enforcers and licensed fish inspectors. Similarly in Cebu, the Cebu City *Bantay Dagat* Coordinating Commission (CCBDC) provides capacity-building exercises and conducts joint operations with other LGUs on the basis of a signed MOA. These modes of collaboration are becoming popular in gulf and bay areas such as in Lingayen Gulf, Davao Gulf, and Banate Bay, and contiguous LGUs.

Intra-LGU cooperation. LGUs may establish mechanisms by which offices within itself can work together more efficiently in coastal law enforcement. The best way to achieve this is through the establishment of a CRM unit or office in the LGU to address not only coastal law enforcement but all CRM plans and programs. A number of coastal municipalities around the country are establishing CRM offices or units with coordinative and technical capacity to manage the basic service delivery of CRM in the LGU. Coordination within the municipality, between the MPDC, ENRO, MAO, *Sanggunian*, MFARMC, *Bantay Dagat*, and other organizations operating within the municipality is vital to facilitate annual monitoring and evaluation of CRM plans and

programs and to improve basic service delivery. LGUs must allocate an annual budget for CRM and all related activities including coastal law enforcement.

Municipalities and cities must allocate adequate funds to cover the operational requirements of coastal law enforcement units. Initial investments in coastal law enforcement include a budget for special training on coastal law enforcement, purchase of patrol boats and other equipment, such as hand-held GPS units, camera, computer, communications equipment, and charts. Recurring annual costs may include maintenance and operations and honorarium and insurance coverage for *Bantay Dagat* and deputized fish wardens.

There are other novel ways for coastal law enforcement efforts to be effective. The array of Philippine laws provide vast opportunities for institutions and LGUs to be creative. But the trend is geared towards collaboration, coordination, and cooperation. More discussion on emerging trends can be found in Chapter 7.



MARLITO GUIDOTE

The local PNP, PNP-MG, and PCG are the core uniformed law enforcement agencies with stations found all over the country. Picture shows common uniforms they use on duty.



CRMP-BOHOL

Adopt-a-Bay Programs of the Philippine Navy and PNP-MG brings together various stakeholders in bays and gulf areas. Picture shows local government officials, NGO and PO leaders, and law enforcement agencies involved in Maribojoc Bay in Bohol.



MARLITO GUIDOTE

Multi-agency consultative conference between and among law enforcement agencies is an effective strategy to ventilate issues affecting coastal law enforcement. Picture shows law enforcement agencies in Central Visayas.



TALIBON LGU

Bantay Dagat teams consisting of deputized fish wardens and local police make up the coastal law enforcement team in a municipality. The picture shows the Bantay Dagat team of Talibon, Bohol posing with their Mayor and police counterparts.



MARLITO GUIDOTE

The DA-BFAR may deputize in writing competent government officials, employees, and officers and members of barangays and fisherfolk associations who have undergone training on law enforcement as deputy fish wardens to enforce fishery laws, rules and regulations. Picture shows local government officials of Camotes Island being trained in coastal law enforcement.



The Philippine Coast Guard Training Center in Manila houses the PCG Mobile training team which may be requested by LGUs to conduct coastal law enforcement training.



The DA-BFAR is the lead agency in the implementation of RA 8550 or Philippine Fisheries Code and all other fishery laws, rules, and regulations. There are DA-BFAR offices in all coastal regions.



The Philippine National Police Maritime Group (PNP-MG) is a national operating support unit of the PNP.



The Philippine National Police College (PNPC) provides continuing education to all PNP personnel. The PNPC is found in Manila but is complemented by Regional Training Centers in almost all key regions of the Philippines.



The PNP Academy provides training to future commissioned officers of the police force.

chapter 3

Common violations of coastal laws

Characterizing the area where violations are committed is one way of distinguishing coastal law enforcement from other types of enforcement. This chapter addresses the key physical features as defined by coastal laws in which human activities are regulated and discusses the types of violations that occur within these areas.

COASTAL ZONE FEATURES

The key physical features are the *coastal area* or *zone*, *foreshore areas*, and *municipal waters* (Figure 4; Table 7). The violations of coastal laws are typified according to those that affect fisheries resources, specific marine and aquatic species, coastal and marine habitat, development activities in the shoreline, quality of sea water, maritime vessel movements and other such crimes commonly committed in the area.

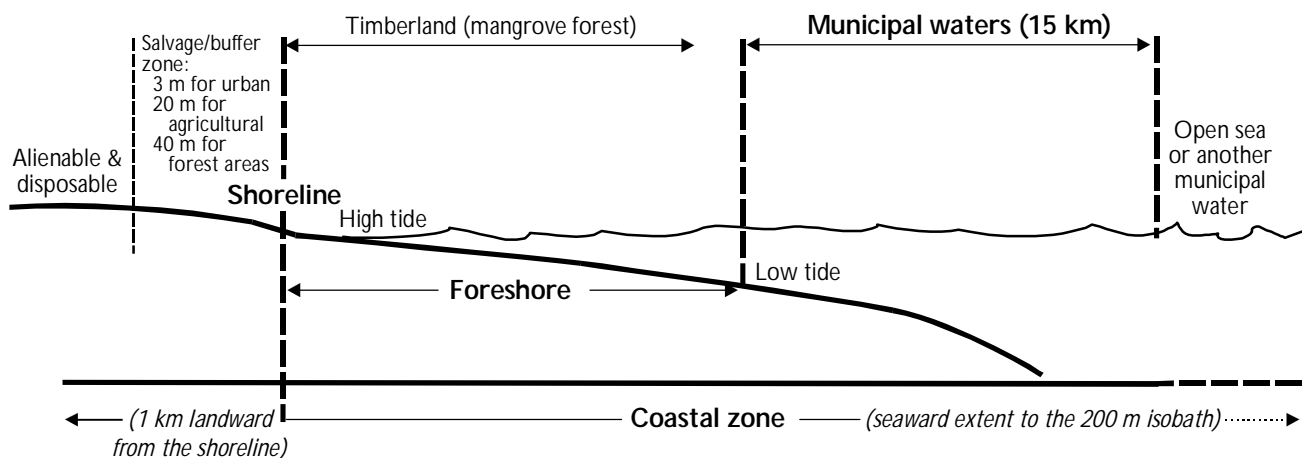


Figure 4. Diagrammatic presentation of key coastal features.

Table 7. Definitions of key coastal features.

Coastal feature	Legal definition
Coastal area/zone	"a band of dry land and adjacent open space (water and submerged land in which terrestrial processes and uses directly affect oceanic processes and uses, and vice versa; its geographic extent may include areas within a landmark limit of 1 km from the shoreline at high tide to include mangrove swamps, brackish water ponds, nipa swamps, estuarine rivers, sandy beaches, and other areas with a seaward limit of 200-m isobath to include coral reefs, algal flats, seagrass beds, and other soft-bottom areas" (RA 8550)
Foreshore area	"a string of land margining a body of water, the part of a seashore between the low water line usually at the seaward margin of a low tide terrace and the upper limit of wave wash at high tide usually marked by a beach scarp or berm" (RA 8550)
Shore	"the space covered and uncovered by the movement of the tide. Its interior or terrestrial limit is the line reached by highest equinoctial tides. Where the tides are not appreciable, the shore begins on the land side at the line reached by the sea during ordinary storms and tempest" (Lands AO 8-3, s1936)
Municipal waters	"not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the protected areas as defined under RA 7586, public forests, timberlands, forest reserves, or fishery reserves, but also marine waters included between two lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore islands and 15 km from it. Where two municipalities are so situated on opposite shores such that there is less than 30 km of marine waters between them, the third line shall be equally distant from the opposite shore of the respective municipalities" (RA 8550)

Coastal area or coastal zone

The coastal area or zone shows the panoramic view by which coastal law enforcement has the principle concern. It provides the parameters by which all laws that become applicable in this area, environmental or otherwise, assume the character of a coastal law and therefore subject to coastal law enforcement. An example is child labor, which is applicable in various conditions, however, if violations in child labor laws are detected in commercial fishing operations, it becomes a target of coastal law enforcement. Moreover, other activities that do not occur in the coastal zone but the effect of which has direct or indirect consequence to the coastal zone is also a target of coastal law enforcement.

Foreshore areas

Foreshore areas are part of the public domain and therefore cannot be owned by private individuals (Commonwealth Act 141, Chapter IX). Exclusive jurisdiction over foreshore areas was given to DENR under EO 192. DENR regulates the use of foreshore areas through a foreshore lease agreement. A foreshore lease agreement allows the lessee to utilize the area for commercial, industrial, or residential purposes under specific terms and conditions, such as

requirements for easements and public access, and after complying with the requirements of PD 1586 or the Environmental Impact Statement (EIS) System. Foreshore lease agreements are given for a period of 25 years and renewable for not more than 25 years. After a foreshore lease agreement has been issued, a permit from the municipality or city is required before any activity may be initiated. Part of the foreshore area is the **shoreline** which marks the margin to the landward easement zone of 3 m in urban areas, 20 m in agricultural areas, and 40 m in forest areas for public use in the interest of recreation, navigation, flotage, fishing, and salvage.

Municipal waters

The municipal waters are where LGUs have the greatest stake in coastal law enforcement under the LGC and Fisheries Code because it is under their direct jurisdiction. Even though municipal waters, as legally defined, exclude national protected areas proclaimed under the National Integrated Protected Areas System (NIPAS) Act, LGUs are authorized to enforce all laws in national protected areas (see *Guidebook 2: Legal and Jurisdictional Framework for Coastal Management, Commonly Asked Questions Answered* for a more detailed explanation of the role of LGUs in national protected areas managed by Protected Area Management Boards).

Municipal waters, under the jurisdiction of LGUs, must be properly delineated in maps and in accordance with guidelines set by the National Mapping and Resource Information Authority (NAMRIA). The delineation process involves inter-LGU consultation and agreement to settle boundary issues. The province plays a vital role in this process of fostering inter-LGU consultation. Physical marking of water boundaries is not necessary nor feasible in most instances. Municipal water boundaries should be shown on maps and boundary coordinates must be included in the local ordinance that establishes the municipal water boundaries. These coordinates will then serve as a tool of coastal law enforcers in policing their waters. Delineation of municipal waters gives the LGUs confidence in policing their seaward territory and heightens success in prosecuting offenders especially with violations against territorial rights such as intrusion of commercial fishers in municipal waters.

Coastal municipalities may enact an ordinance allowing licensed small and medium-scale commercial fishing in the area of municipal waters between 10.1 and 15 km from the shoreline with a permit from the Mayor. However, such an ordinance cannot be promulgated until the municipality has delineated its municipal water boundaries in accordance with NAMRIA guidelines, conducted public hearings, and passed an ordinance establishing its boundaries as described in the Fisheries Code.

TYPOLGY OF COASTAL LAW VIOLATIONS

Laws mentioned in the previous chapter cover an array of activities such as fishing, coastal area management, regulation of substances, employment practices, waste management, infrastructure development, health and sanitation, shipping, public services, and other felonious acts. These laws

persons, properties or resources, and **acts** of persons towards the properties or resources that are found or affect the coastal and marine environment. Violations of these laws are called coastal law violations.

The **persons** in the coastal zone are the players whose actions are expected to conform to what is specified in the existing laws. They are the general public, subsistence, municipal, and commercial fishers, mariners, business operators and traders, private employees, public officers, and other persons regardless of creed or nationality. Culpability or accountability oftentimes is directed to specific persons depending on the nature of violation such in the case of employing unlicensed fishworkers where the owner or operator is liable and not the boat captain or the workers. Persons involved in illegal activities may be arrested, fined, or imprisoned.

The **properties or resources** that constitute or are present in the coastal zone could be private properties such as buildings, fishpens, and other structures, boats, gear, and other objects of private ownership or public domain such as shoreline salvage zones, the municipal waters, and other areas of government control. **Resources** refer to the coastal resources and habitats such as fisheries, corals, mangroves, and other marine and aquatic resources. Properties or resources involved in illegal activities are searched, seized, or confiscated and closed or dismantled as the case may be.

Acts refer to practices and activities of persons or group of persons such as fishing, building structures, owning or acquiring, possessing, using, or disposing of material objects or properties, employing persons, and other acts that may directly or indirectly affect other persons, properties, and resources in the coastal zone and municipal waters. It also refers to the consequences resulting from engaging in the practice or activity being regulated. Acts may be discontinued by lawful means such as verbal and written warnings, serving of warrants and notices, and reasonable use of force. Sanctions on violations are meted out based on administrative or criminal procedures or both depending on the circumstances.

Generally, violations of coastal laws can be categorized as:

- ♦ Fisheries-related;
- ♦ Protected aquatic species-related;
- ♦ Coastal habitat-related;
- ♦ Foreshore and shoreline development-related;
- ♦ Coastal and marine pollution-related;
- ♦ Zonal and navigation-related; and
- ♦ Other violations/crimes.

Fisheries-related violations (Annex 1A)

National laws and regulations are designed primarily to limit access to and overexploitation of fisheries resources. The global and national demand for fisheries products has escalated with the peak world catch recorded in 1989 (McGinn 1998). Since that time, the world catch of fish has declined. Philippine fisheries have mirrored global trends with serious declines in municipal fisheries over the last 10 years (Lacanilao 1998). Currently, all fisheries in the Philippines are declining and showing clear signs of overexploitation as evidenced by declining catch per unit effort, declining size of fish caught, and declining quality of fish caught. Strict compliance with national fisheries laws is necessary to protect Philippine fisheries from collapse and to avert a food security crisis (Courtney *et al.* 1999). While local legislation must not contravene national laws. In addition, LGUs may limit or prohibit fishery activities not specified in national laws. For instance, the use of compressors for fishing is not banned in the Fisheries Code; however, many municipalities are now banning the use of compressors for fishing in municipal waters recognizing that the use of this fishing gear promotes cyanide fishing and coral reef destruction as fishers break apart living corals to collect poisoned fish, shells, and other valuable marine life.

Most fisheries-related violations are based on the Philippine Fisheries Code (RA 8550) and related FAOs. These violations cover: resource users and licenses: e.g. subsistence fishers, municipal fishers, commercial fishing operators, fishworkers; type of fishing method or technology to be employed and their corresponding permits and licenses, e.g. active vs. passive gear; mesh size of net; banning destructive fishing practices; tonnage of fishing vessel, area of operation, and license, municipal fishing boats (less than 3 GT) and small (3.1 to 50 GT), medium (50 to 150 GT) and large (greater than 150 GT) commercial fishing boats; type and age of marine and aquatic fishery species that may be caught or harvested; utilization of portions of land devoted to fishery activities; and certain management regimes, e.g. closed seasons and marine sanctuaries. Other fisheries-related violations involve practices in the merchant marine profession such as compliance to documentary requirements and compliance to labor standards. A list of the common fisheries-related violations and legal bases can be found in Annex 1A.

Some of the more common fisheries-related violations are:

- ♦ Fishing in restricted/regulated areas;
- ♦ Fishing by use of explosives;
- ♦ Fishing by use of noxious or poisonous substances;
- ♦ Fishing by use of electricity;
- ♦ Marketing and buying illegally caught fish;
- ♦ Fishing by use of fine-mesh nets;
- ♦ Fishing by use of superlights;
- ♦ Unlawful activities associated with commercial fishing;
- ♦ Fishing without the necessary licenses, permits, and other documentary requirements; and
- ♦ Other fisheries-associated offenses.

Some of the persons referred to in fisheries laws, rules, and regulations include the municipal fishers and other users of municipal waters, commercial fishers and all persons they employ or deal with, fish vendors, and all other persons directly or indirectly involved in fish trade, and even public officials. Properties include the coastal zone and 15 km extent of municipal waters, the boat and other devices used in fishing such as gear and lights while resources include all marine and aquatic resources. Regulated acts include catching of fish in regulated and prohibited areas and seasons, dealing, selling, and disposing of illegally caught fish, possession or use of objects or substances that are destructive to people, properties, and resources and employment of workers.

Protected species-related violations (Annex 1B)

International treaties, national laws, and administrative orders issued by BFAR and DENR regulate or prohibit a wide range of activities and uses of aquatic species (Table 8). Issuances regulating or prohibiting human use of certain species or groups of animals are necessary for several reasons. A thorough discussion can be found in *Guidebook 5: Managing Coastal Habitats and Marine Protected Areas*.

Protected species-related violations involve the collection or catching, possession, sale, or export of marine species protected under these laws. The special set of laws and rules protect particularly vulnerable species from overexploitation and local extinction. Prohibitions on the taking, catching, selling, or exporting protected species, such as marine turtles, dolphins, whales, and *Dugong*, are necessary to stop local and possibly global scale extinctions of these species. The ban on gathering, sale, possession, and export of corals protects vital coral reef ecosystem functions, promotes healthy fisheries, and stops local extinction of these species. Overexploitation of some species, such as whale sharks and manta rays, is now driven by the high monetary values that these species fetch in international markets. For instance, whale sharks and manta rays were considered traditional fisheries in some parts of the Philippines; however, international demand for these and other marine species has transformed a sustainable, traditional use fishery into an unsustainable export product. Commercial fishing causes high by-catch of dolphins that get caught in nets and drown. Strict protection of large marine animals, including sharks, marine mammals, and sea turtles, is now the norm in most parts of the world because of global recognition of the importance of these species in the maintenance of healthy coastal ecosystems and due to their extreme vulnerability to overexploitation. A list of common protected species-related violations and legal bases can be found in Annex 1B.

Table 8. List of prohibited/regulated aquatic species in the Philippines.

I. The Philippine aquatic species listed in FAO 208

A. Rare species

	Scientific name	English name
1. Gastropods	<i>Bolma girgylus</i>	Girgylus star shell
	<i>Clypeomorus aduncus</i>	Bent cerith
	<i>Recluzia lutea</i>	Recluzia snail
	<i>Separatista blainvilliana</i>	True separatista
	<i>Malluvium lissus</i>	Deep sea cap
	<i>Strombus thersites</i>	Thersite stromb
	<i>Varicospira crispate</i>	Network beak shell
	<i>Tibia martini</i>	Martini's tibia
	<i>C. childreni</i>	Children's cowrie
	<i>C. beckii</i>	Beck's cowrie
	<i>C. guttata</i>	Great spotted cowrie
	<i>C. porteri</i>	Porter's cowrie
	<i>C. teramachii</i>	Teramachi's cowrie
	<i>C. martini</i>	Martini's cowrie
	<i>C. saulae</i>	Saul's cowrie
	<i>C. katsuae</i>	Katsue's cowrie
	<i>C. leucodon</i>	White toothed cowrie
	<i>C. aurantium</i>	Golden cowrie
	<i>C. valentia</i>	Prince cowrie
	<i>Phenacovolva dancei</i>	Dance volva
	<i>Cypraea cassis rufa</i>	Bullmouth helmet
	<i>Phalium coronadoi wyvillei</i>	Wyville's bonnet
	<i>P. glabratum glabratum</i>	Smooth bonnet
	<i>Morum kurzi</i>	Kurzi's morum
	<i>M. grande</i>	Giant morum
	<i>M. watsoni</i>	Watson's morum
2. Bivalves	<i>Amusium oblitteratum</i>	Smudged moon scallop
	<i>Eufistulana mumia</i>	Club-shaped boring clam

B. Threatened species

	Scientific name	English name	Local name
1. Gastropods	<i>Turbo marmoratus</i>	Green snail	<i>Laong, bulatok</i>
	<i>Trochus niloticus</i>	Smooth top shell	<i>Samong, simong; tuwad</i>
	<i>Barnea manilensis</i>	Angel wing shell	<i>Diwal</i>
2. Crabs	<i>Birgus latro</i>	Coconut crab	<i>Tatus, umang; alimangong lupa</i>

C. Endangered species*

1. Whales and dolphins	<i>Balaenoptera edeni</i>	Bryde's whale	<i>Balyena, bongkaras</i>
	<i>B. physalus</i>	Fin whale	<i>Balyena</i>
	<i>Megaptera novaeangliae</i>	Humpback whale	<i>Balyena</i>
	<i>Physeter macrocephalus</i>	Sperm whale	<i>Balyena</i>
	<i>Kogia breviceps</i>	Pygmy sperm whale	<i>Balyena</i>
	<i>K. simus</i>	Dwarf sperm whale	<i>Balyena</i>
	<i>Mesoplodon densirostris</i>	Blainville's beaked whale	<i>Balyena</i>
	<i>Ziphius cavirostris</i>	Cuvier's beaked whale	<i>Balyena</i>

*Species, subspecies, including the eggs, offspring, parts and derivatives of plants and animals listed in the CITES Appendices.

(continued)

Table 8. (continued)

	Scientific name	English name	Local name
	<i>Peponocephala electra</i>	Melon-headed whale	<i>Lumod</i>
	<i>Feresa attenuata</i>	Pygmy killer whale	<i>Lumod</i>
	<i>Globicephala macrorhynchus</i>	Short finned pilot whale	<i>Pakatang-ambuhatan</i>
	<i>Steno bredanensis</i>	Rough-toothed dolphin	<i>Lumba-lumba</i>
	<i>Tursiops truncatus</i>	Long-snouted bottlenose dolphin	<i>Lumba-lumba; lumod</i>
	<i>Stenella longirostris</i>	Long-beaked dolphin	<i>Lumba-lumba</i>
	<i>S. attenuata</i>	Narrow-snouted dolphin	<i>Lumba-lumba</i>
	<i>S. caeruleoalba</i>	Striped dolphin	<i>Lumba-lumba</i>
	<i>Lagenodelphis hosei</i>	Fraser's dolphin	<i>Mayahon</i>
	<i>Grampus griseus</i>	Risso's dolphin	<i>Lumba-lumba; kabang</i>
	<i>Orcinus orca</i>	Killer whale	<i>Balyena</i>
	<i>Pseudorca crassidens</i>	False killer whale	<i>Balyena</i>
2. Clams	<i>Tridacna gigas</i>	True giant clam	<i>Taklobo</i>
	<i>T. derasa</i>	Smooth giant clam	<i>Taklobo</i>
	<i>T. squamosa</i>	Fluted/scaly giant clam	<i>Hagdan-hagdan</i>
	<i>T. maxima</i>	Elongated giant clam	<i>Manlet; manlot</i>
	<i>T. crocea</i>	Boring/crocus clam	<i>Let-let</i>
	<i>Hippopus hippopus</i>	Strawberry/horse hoof clam	<i>Kukong kabayo</i>
	<i>H. porcellanus</i>	China/porcelain clam	<i>Kukong kabayo</i>
3. Sea snakes	<i>Cerberus rhyncopus</i>	Dogface water snake	<i>Kalabukab</i>

II. Philippine aquatic species regulated by other issuances than FAO 208 (2001)

Species	Issuance	Regulation
<i>Dalag</i> (snakehead murrel), <i>kanduli</i> (catfish), and <i>banak</i> (mullet)	FAO 3	Regulates the conservation of the species
Marine mollusks	FAO 11** FAO 168**	Regulates gathering of the species License requirements for gathering, culturing, and exporting shelled mollusks
<i>Chanos chanos</i>	FAO 129 FAO 173	Bans the capture, sale, possession, and transport of <i>sabalo</i> Bans exportation of <i>hatirin</i>
Seaweeds	FAO 146**	Regulates farming
Tropical aquarium fishes	FAO 148**	Regulates gathering, catching, taking, or removing
<i>Placuna placenta</i>	FAO 157**	Regulates gathering, taking, removing and collecting of <i>kapis</i>
<i>Triton</i> spp., <i>Charonia</i> spp., <i>Cassis</i> spp.	FAO 158	Prohibits gathering, selling, transporting, or possessing of the species
<i>Scylla serrata</i>	FAO 162	Regulates permit for exportation
Whale sharks and manta rays	FAO 193	Bans the taking or catching, sale, purchase, possession, and transport
Coral species	FAO 202	Bans gathering, sale, possession, and export
<i>Dugong dugon</i>	DAO 55, s1991	Declares as protected marine mammal

** Devolved to local governments as per DA-DILG Joint MOA (1994)

(continued)

Table 8. (continued)

III. The Philippine aquatic species listed in the CITES Appendices

	Scientific name	English name
1. Reptiles	<i>Cerberus rhynchops</i> <i>Natrix piscator</i> <i>Atretium schistosum</i>	Dog-faced water snake Checkered keelback water snake Olive keelback water snake
2. Fishes (introduced)	<i>Scleropages formosus</i> <i>Arapaima gigas</i> <i>Pangasianodon gigas</i>	Asian arowana Arowana Giant catfish
3. Coelenterates	<i>Acropora</i> spp. <i>Heliopora</i> spp. <i>Halomitra</i> spp. <i>Platygyra</i> spp. <i>Favia</i> spp. <i>Lobophyllia</i> spp. <i>Euphyllia</i> spp. <i>Pocillopora</i> spp. <i>Pavona</i> spp. <i>Stylophora</i> spp. <i>Polyphallia</i> spp. <i>Pectinina</i> spp. <i>Millepora</i> spp. <i>Tubipora</i> spp. <i>Seriotopora</i> spp. <i>Stylaster</i> spp. <i>Oulastrea</i> spp. <i>Leptoseris</i> spp. <i>Pachyseris</i> spp. <i>Psammocore</i> spp. <i>Cycloseris</i> spp. <i>Fungia</i> spp. <i>Herpolitha</i> spp. <i>Parahalomitra</i> spp. And other species under Class Anthozoa and Hydrozoa	Black corals Blue corals Bowl corals Brain corals Brain corals Brain root corals Brain trumpet corals Brown stem cluster corals Cactus corals Cauliflower corals Feather corals Lettuce corals Yellowfire corals Organpipe corals Bird nest corals

Common protected aquatic species-related violations are:

- ♦ Capture of threatened and endangered species;
- ♦ Capture of regulated species; and
- ♦ Importing and exporting regulated and prohibited species.

Key persons referred to in protected species-related violations other than those mentioned in fisheries-related violations include importers and exporters. Properties and resources, on the other hand, include all those mentioned in CITES and FAOs while acts include catching, selling, dealing, importing, and exporting of the resources cited.

Coastal habitat-related violations (Annex 1C)

National laws and regulations are also designed to protect critical coastal habitats such as coral reefs, seagrass beds, and mangroves. These habitats are severely degraded throughout the Philippines with only 5 percent of coral reefs considered in excellent condition nationwide and mangrove habitats reduced to 120,000 ha, down from 450,000 ha in the early 1900s (Courtney *et al.* 1999). Fisheries cannot survive without healthy coastal habitats. Coastal habitat-related violations are activities or practices that directly or indirectly support marine and aquatic life. A list of the common habitat destruction violations and legal bases can be found in Annex 1C.

Common coastal habitat-related violations are:

- ♦ Destruction of forestry habitat; and
- ♦ Destruction of marine habitat (coral reefs, seagrass beds, etc.).

All persons, properties and resources, and acts mentioned in fisheries-related and protected species-related violations also fall under this typology. Additional persons include miners and transporters or mined products; properties and resources include forest products, sand and gravel, and other minerals found in the coastal areas. Acts include cutting, collecting, and transporting of resources without permits or licenses.

Foreshore and shoreline development-related violations (Annex 1D)

The shoreline and foreshore areas of the coastal zone are extremely vulnerable to degradation by human activities. Shoreline development affects the natural geophysical composition of a portion of land bordering the sea through introduction of structures in the beach area that directly or indirectly affect coastal resources.

The natural shoreline is a dynamic feature of the coastal zone, which changes as a result of storms, tides, currents, waves, and other natural processes. Structures built too close to the sea often are subject to storm-induced erosion when natural processes cause the shoreline to recede. Exacerbating the problem of construction along the shoreline, people erect seawalls with the hope of protecting their infrastructure investment. Seawalls cause additional erosion because they bounce wave energy and sand back to the sea hindering the natural accretion of beaches. Restricting access of the general public to the use and enjoyment of foreshore areas such as beaches and bathing areas, which are in the public domain is illegal and becoming an increasing source of resource use conflicts in the coastal zone. Construction of any structure along the shoreline and foreshore areas, such as seawalls, jetties, reclamation areas, ports, harbors, and beach resorts, must comply with setback requirements and cannot be initiated without an environmental assessment and environmental clearance certificate (ECC) from DENR. For these and other reasons, national laws require setbacks from the shoreline and rules on the use of foreshore areas. A list of the common foreshore and shoreline-related violations and legal bases can be found in Annex 1D.

Common foreshore and shoreline development-related violations are:

- ♦ Unauthorized use of foreshore and shoreline; and
- ♦ Unauthorized operations.

Some of the persons referred to in foreshore and shoreline development-related violations include government and private sector development in ports and harbors, aquaculture, tourism, and other trade that involve altering the natural feature of the foreshore and shoreline, building or structure owners, operators, and developers.

Coastal and marine pollution-related violations (Annex 1E)

Pollution-related violations are activities that affect marine life, human health, marine activities and reduction in the quality and usefulness of seawater. The Fisheries Code created a new category of pollution, called aquatic pollution, which is broadly defined to cover the introduction of any substance or energy into the aquatic environment resulting in deleterious effects as to harm living and non-living aquatic resources. This definition includes those substances that pose potential or real hazards to human health, as well as hindering aquatic activities such as fishing and navigation. This may include deforestation, unsound agricultural practices such as the use of banned or excessive chemicals, intensive use of artificial fish feed, and wetland conversion. Common coastal and marine pollution-related violations and legal bases are listed in Annex 1E.

Common violations are:

- ♦ Land-based pollution; and
- ♦ Sea-based pollution.

There are generally two sources of coastal and marine pollution: land-based pollution and sea-based pollution. A thorough discussion of these can be found in *Guidebook 7: Managing Impacts of Development in the Coastal Zone*. Land-based sources of pollution pose the most serious threat to coastal waters in the Philippines. These sources include runoff from upland agricultural practices that introduce pesticides into the coastal waters, deforestation that increases siltation in rivers and coastal waters, industrial sources that discharge harmful levels of toxic pollutants and organic waste, and domestic sources of human wastewater and solid waste.

Sea-based pollution mostly comes from the maritime industry. This comes in the form of waste oil from washing tanker holds, discharge of oil-contaminated bilge water, and emissions from motorized boats, oil spills, and those numerous small spills that often go unrecorded. Exotic species may also be introduced to coastal waters when ballast water is dumped.

Discharge of organic pollutants may cause fish kills from oxygen depleting organic wastes. Toxic pollutants and subsequent entry of these pollutants in the marine food chain causes acute and chronic and sometimes deleterious effects on marine species and fisheries productivity. Dumping of oil and solid wastes into coastal waters affects marine wildlife.

Standard setting is an important regulatory tool for pollution control. Effluent discharge and coastal water quality standards are established by the DENR under DAO 34 and DAO 35, respectively. DENR classifies coastal waters according to use and standards. The Fisheries Code authorizes LGUs to prescribe minimum standards for fishpond facilities in consultation with the DA-BFAR (Section 57), as well as standards for post-harvest facilities such as fish processing plant, ice plants, cold storage facilities, fish ports and landings, and other fishery business establishments. All of these facilities have major environmental (waste pollution) impacts and must conform to certain environmental standards. Therefore, the minimum standards prescribed by the LGUs must not only pass the standards of the DA-BFAR, but the DENR as well.

Practically all persons, properties and resources, and acts mentioned in previous typologies are also applicable in coastal and marine pollution-related violations especially those that operate in the shoreline and foreshore.

Zonal and navigation-related violations

Zonal and navigation-related violations are activities that affect maritime traffic and safety of seafarers and coastal resource users. Common zonal and navigation-related violations are:

- ♦ Lack or insufficient communication and life saving devices;
- ♦ Non-observance of the rules of the nautical road;
- ♦ Passage through and anchorage in non-navigational areas; and
- ♦ Improper use of sea lanes, wharfs, harbors, and anchorage.

Other activities and practices violative of administrative orders of the Marina, PCG, and PPA are included here.

Persons who are mostly liable in these violations are boat captains, owners and operators of vessels, and even vessel crews. Properties involved are large-scale vessels and their equipment and devices and designated sea lanes and navigational areas while resources are those enumerated in marine and coastal habitats. Acts referred to are anything that will endanger vessel occupants such as crews and passengers and adverse effects on resources that may be affected from vessel movement.

Other violations/crimes (Annex 1F)

Other violations refer to felonies or crimes that occur in the coastal environment. These acts, although not directly impacting the coastal resources, contribute to the general lack of enforcement that may in the long run worsen the condition of the coastal environment if not corrected. Acts that fall under this category include those that are punishable under the Revised Penal Code or the Code of Conduct of Public Officials, Graft and Corrupt Practices Law, Dangerous Drugs Act, and others (Annex 1F).

Some of the crimes committed in the coastal areas are:

- ♦ Graft and corrupt practices of public officials;
- ♦ Illegal sale and distribution of ammonium nitrate;
- ♦ Illegal transport and sale of explosives and explosive devices such as blasting caps;
- ♦ Illegal possession and transport of firearms;
- ♦ Entry of drugs, smuggled goods, explosives, and other illegal substances; and
- ♦ Obstruction of justice.

Graft and corrupt practices are rampant in the coastal area. In some instances, law enforcers and their deputies themselves extort money or fish from municipal fishers and commercial fishing vessel operators while in some cases the fisherfolk and boat operators themselves bribe enforcers to evade arrest.

Philippine coasts are vulnerable to international drug trafficking and domestic drug dealing because it is nearly impossible for narcotic enforcers to monitor the country's 18,000-km shoreline. PNP reports that fishing vessels are being used to haul drugs in commercial quantities because it is seldom that law enforcers board vessels for inspection.

Other criminal activities are smuggling, piracy and sea-jacking, and illegal entry of migrants. As a result, there had been a noted increase in the possession of loose firearms among commercial fishing vessels which they apparently use to protect themselves from criminals at sea. Loose firearms are punishable under Philippine laws.

RELATEDNESS OF VIOLATIONS

There is no exclusive distinction among general categories of violations. An offense may cut across one or all the categories at any one time. For example, improper anchorage of maritime vessels on coral reefs may be considered as violative of fisheries, habitat, and navigation-related offenses altogether. If the same vessel is found to have undocumented personnel or have illegally employed children, or is not complying with minimum safety standards, it may also be held liable on offenses against child labor and merchant marine laws.

Coastal law enforcement units should be able to efficiently and precisely identify all violations in the coastal area employing all lawful means to effect arrest of persons, search and seize properties and resources, and permanently stop illegal acts by way of successful prosecution. However, given the myriad of applicable laws, diversity of agencies mandated to enforce them and the widespread violations occurring, the need is reiterated for coastal law enforcers to cooperate, coordinate, and complement each other's efforts.

A successful coastal law enforcement activity is both preventive and corrective employing an integrated approach through multisectoral collaboration. There are numerous tools for coastal law enforcement to learn from. These tools may be employed for positive or soft enforcement approaches or may be used to initiate a hardline approach, often called negative or hard enforcement to suppress violators.



COAST GUARD CEBU

The National Operations Center for Oil Pollution was created by law under the PCG to respond to oil spills all over the country.



MARLITO GUIDOTE

Poor solid waste management continues to threaten the coastal zone. Garbage on beaches often is a result of illegal dumping at sea and non-compliance with land-based waste management ordinances.



MARLITO GUIDOTE

Employment of minors is rampant in commercial fisheries specifically in pa-aling and muro-ami operations.



CALIXTO YAO

Mangrove areas are illegally being converted to fishponds. Fishponds must be covered by lease agreement with the BFAR.



CEBU BANTAY DAGAT FILE

Illegally caught manta ray is being confiscated by BFAR and Bantay Dagat members in the Central Visayas region. The manta ray is a protected species.



ELPIDIO DELA VICTORIA

Sea turtles are being poached in many parts of the Philippines for their meat and shell. The shell is used for decorative purposes while the meat and eggs are considered aphrodisiacs.



ELPIDIO DELA VICTORIA

Samples of homemade blasting caps used as detonators in fertilizer-based dynamite. Illegal manufacturing of blasting caps is common in some towns in Cebu province.



ELPIDIO DELA VICTORIA

Ammonium nitrate, a common fertilizer, is highly regulated because it is being used as an ingredient in making homemade explosives. A special permit issued by the PNP is required to possess, deal, transport, and distribute any kind of nitrate.



ELPIDIO DELA VICTORIA

Collection, sale, and export of all stony corals are prohibited. Illegal coral mining occurs in different parts of the country because of dealers and financiers who support souvenir shops and exporters.

chapter 4

Soft coastal law enforcement approaches to achieve voluntary compliance

Soft coastal law enforcement approaches refer to the use of tools to prevent enforcement violations by soliciting voluntary compliance of the laws, rules, and regulations by a fairly large percentage of the targeted population (Figure 3). These approaches do not depend upon the use of force (or the presence of force) to change illegal human behavior. Rather, they foster an understanding of the common good for which laws are designed to protect and an effective management system that regulates resource use in a transparent and equitable manner. The CRM process described in Figure 2 provides many opportunities to promote voluntary compliance.

This chapter describes some of the soft coastal law enforcement approaches available to coastal law enforcement using the CRM framework. This involves planning, legislation and regulation, monitoring and evaluation, information management, education and outreach, and networking and alliance building. Most of the tools in this chapter are for local government use since LGUs are the frontline stewards of the environment. However, the role that NGAs and assisting organizations play in the process is also emphasized.

COASTAL RESOURCE MANAGEMENT PLANNING

CRM planning can be an effective tool in starting a soft coastal law enforcement program at the local government level because it establishes a system of fairly allocating sustainable coastal resource use and it is participated in by all coastal stakeholders. A related discussion may be found in *Guidebook 3: Coastal Resource Management Planning*.

There is no specific rule as to who should lead the participatory CRM planning in an LGU. However, it is logical that the planning and development office of the LGU takes the lead together with the Office of Agriculture or the Office of Environmental Management because it involves strategies such as zoning municipal water use, structuring a licensing and fee system, establishing marine protected areas, and starting other interventions to address a variety of coastal resource issues. Municipal and city government offices may request the assistance of the province as well as NGAs and assisting organizations to capacitate LGUs in planning.

Participatory coastal resource assessment

Issue identification and baseline assessment is an essential first phase in the planning process. Participatory coastal resource assessment (PCRA) (Walters *et al.* 1998) is one of the processes in planning by which the community can be actively involved in mapping coastal resource uses and issues. PCRA provides a venue where decision-makers, local planners, community members, local legislators and enforcers meet and jointly identify and prioritize coastal issues. Maps produced using this process are powerful instruments in setting directions for coastal law enforcement strategies because they are visual, easily comprehensible, and a product of a collaborative effort of coastal stakeholders (Figure 5). Information and data gathered during PCRA assists law enforcers identify specific strategies to address violations of coastal laws. As discussed in the succeeding chapter, baseline information from PCRA serves as intelligence input from which law enforcers base their operations.

A variety of other participatory tools such as workshops, discussion groups, and seminars can be used to help organize the community, identify issues and concerns of important stakeholders, and identify potential supporters of coastal law enforcement. Participatory tools set the stage for promoting a shared vision of sustainable coastal resource use and consequently provide a solid foundation for voluntary compliance in the community (see also *Guidebook 4: Involving Communities in Coastal Management*).

Municipal water delineation

During the initial planning stage, municipalities must be able to delineate their municipal waters to clearly show areas of jurisdiction. Consultations and agreements between and among contiguous municipalities must be achieved in order to conclusively settle water boundaries. Official boundaries showing exact coordinates as approved by NAMRIA are then included in the municipal ordinance. The municipal ordinance must be disseminated in the widest range possible for community members and neighboring LGUs. This is the work of the LGU's information officer in soft coastal law enforcement.

Maps showing municipal boundaries must be displayed conspicuously. Posting these maps in the municipal capital building, *barangay* hall, and other strategic places such as ports, fish landings, marketplaces, and other places where people congregate is another soft enforcement approach to promote voluntary compliance. A map showing municipal water boundaries will also improve coastal law enforcement interventions in general because their area of operations will be well defined.

Reproduction of these maps may be accomplished manually by a cartographer or artist, or by digitizing the maps using geographic information systems (GIS). A number of GIS service providers are available throughout the country and many provinces are now equipped to assist municipalities with their mapping needs. NAMRIA, the National Economic and Development Authority (NEDA), the Department of Science and Technology (DOST), and private GIS service providers can also assist LGUs in digitizing and printing maps.

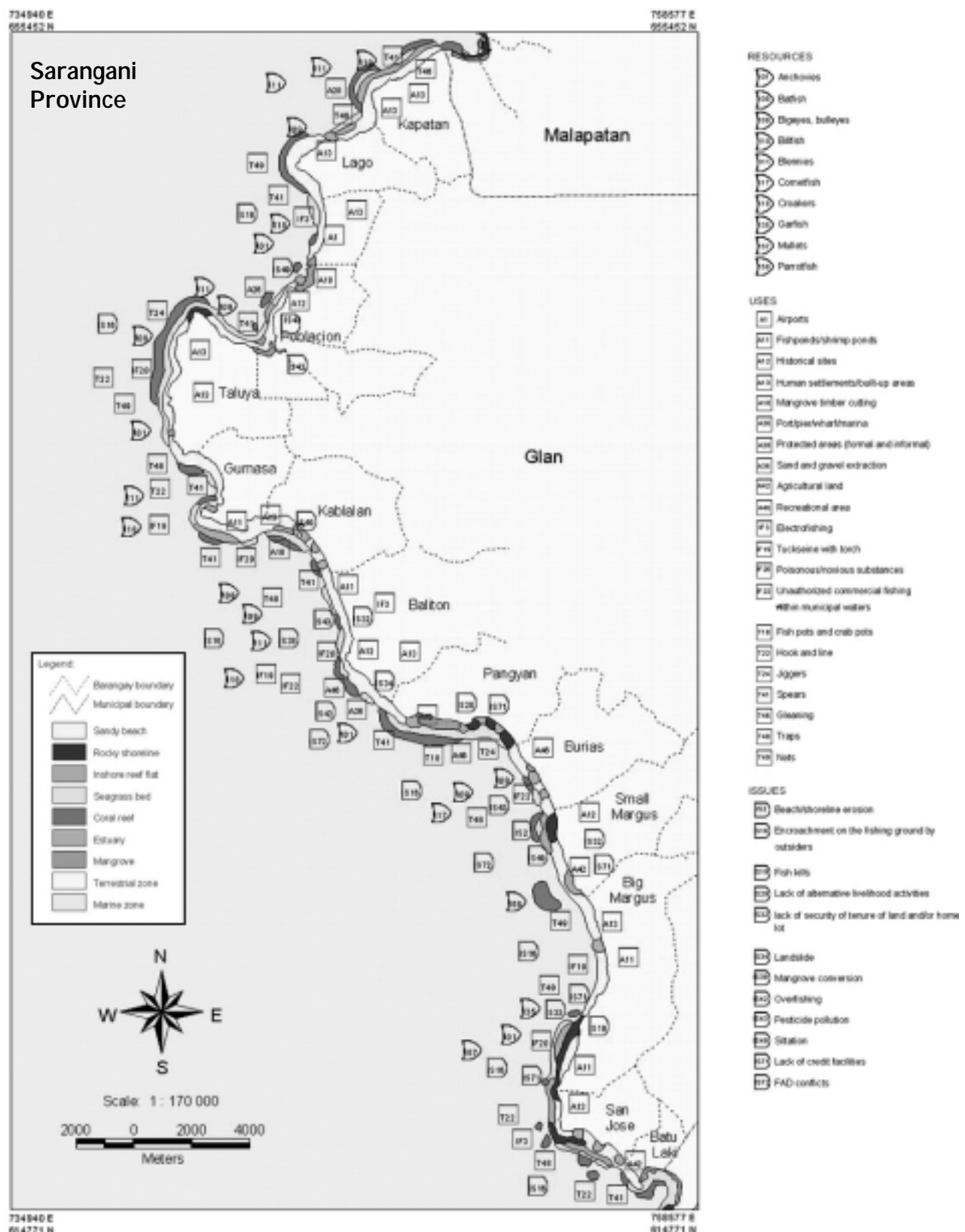


Figure 5. Coastal resources and issues mapped through a participatory process serve as baseline information for planning a local coastal law enforcement strategy.

Coastal resource management plan adoption

The results of issue identification and baseline assessment are used in the preparation and adoption of a multi-year municipal or city CRM plan (Phase 2, Figure 2). A CRM plan provides the framework and strategies to address issues identified in the PCRA including violations in the coastal area. Zoning of municipal waters for specific uses including: strict protection, sustainable use, and special habitat protection zones for mangrove and coral reef conservation (Figure 6) is one way of regulating resource use.

Community consultations, workshops, and public hearings are conducted to solicit input on solutions and strategies to address the issues and propose management options or best practices necessary for the sustainable use of coastal resources. Making community members including law enforcement agencies part of the planning and decision-making process increases consensus and cooperation among all stakeholders that then becomes a solid ground for compliance with the provisions of the adopted CRM plan.

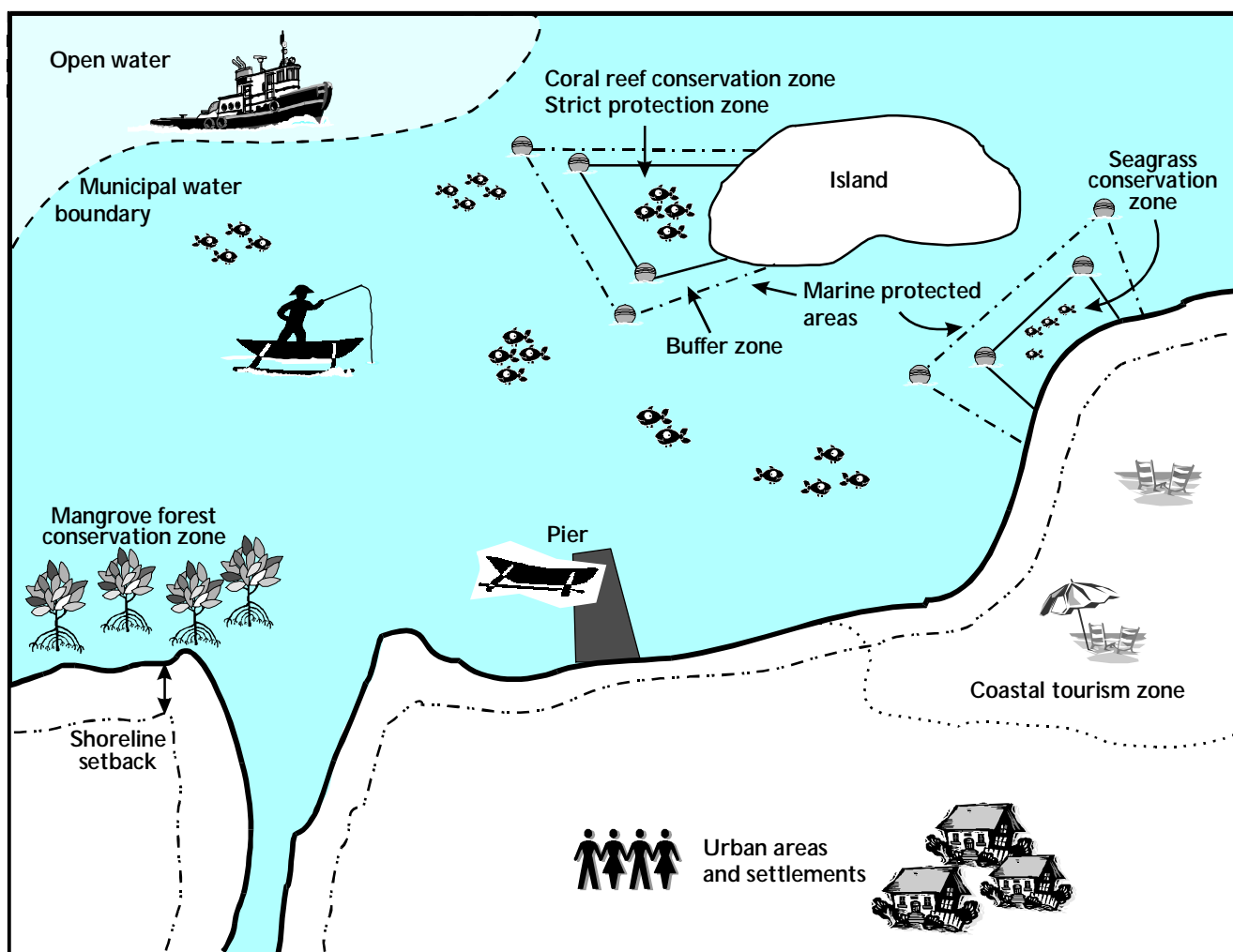


Figure 6. Illustrative municipal water use zoning plan.

Coastal law enforcement agency offices operating in the LGU such as the DENR, DA-BFAR, PCG, PNP, NBI, and all other related agencies and relevant offices should be provided a copy of the CRM plan. The local government information office must have multiple copies of the adopted CRM plan for public consumption provided for in the citizen's right to access public documents.

Successful implementation of the CRM plan is ultimately dependent on the day-to-day coastal resource users and their activities and livelihood that will be governed by the plan. Active participation in planning from the *barangay* level up is important. Frequent consultations with private sector stakeholders such as fishpond operators, tourism operators, and commercial fishing operators, is also essential in developing broad-based support for the plan. An integrated and sustainable approach to addressing all issues identified in the PCRA, as qualities of a good CRM plan, enables coastal law enforcers to concentrate on actions that will achieve general and special deterrence.

LEGISLATION AND REGULATION

Effective law making at the local level is essential in soliciting voluntary compliance. Local ordinances must not only be legally sound but it must also enjoy popular support. Coastal environment-related ordinances will not please the entire population as it will curtail some practices or activities of a cross-section of the community; however, it is incumbent on the local legislators to effectively convey the real intentions of the ordinance by engaging the public to participate in the deliberation process for the ordinance to be understood and later on publish or market socially the ordinance to encourage acceptability.

The *Sangguniang Bayan* or *Sangguniang Panlungsod*, as the local legislative bodies of the municipality and city, respectively, are authorized to enact ordinances, in consultation with the FARMC, for the management, conservation, development, protection, utilization, and disposition of all fish and fishery or aquatic resources within their respective municipal waters (RA 8550 Sec. 16). A basic Municipal or City Fisheries Ordinance should delineate the boundaries of the municipal waters and provide rules and regulations on licensing and permits and other fisheries activities (DA AO No. 3 S.1998, Rule 16.1). Public hearings are required for all ordinances. The provincial *Sangguniang Panlalawigan* reviews municipal ordinances for consistency with national laws.

Local legislation must complement and enhance national laws and should not replicate them. For instance, local legislation may not be necessary or advisable if specific FAOs cover the prohibition of or regulatory measures and penalties for violations required by the LGU. Local ordinances may be required when the existing national law does not cover a specific management or protection measure. Some common regulatory mechanisms and prohibitions on coastal resource use enacted through local ordinance are listed in Table 9. Furthermore, LGUs are limited in amount of fines that can be imposed to PhP 1,000 for the *barangay*, PhP 2,500 for the

Table 9. Examples of regulatory mechanisms and prohibitions enacted through local legislation.

- ♦ Delineating the boundaries of municipal waters
- ♦ Establishing FARMCs composed of fisherfolk organizations and cooperatives and NGOs in municipalities and cities abutting municipal waters and providing for operating expenses
- ♦ Establishing community-based coastal law enforcement units (e.g. *Bantay Dagat*) and providing for honorarium, insurance, and operating expenses
- ♦ Adopting CRM plan of the municipality
- ♦ Establishing a CRM office of the municipality
- ♦ Appropriating funds for CRM through the LGU's General Budget and 20 percent Development Fund
- ♦ Establishing a registry, licensing, and fee system for municipal fishing vessels, gear, and fisherfolk and for other uses of municipal waters including seaweed farming, fish pens, fish cages, fish hatcheries, fish breeding facilities, and private fishponds
- ♦ Declaring special demarcated fisheries areas (e.g. spawning grounds), closed seasons (e.g. spawning seasons), and environmentally critical areas and sanctuaries (e.g. marine sanctuaries)
- ♦ Designating a color coding system for municipal waters so as to include identifiable markings to be carried by the fishing boats licensed in that municipality
- ♦ Prohibiting or limiting fishing activities in municipal waters or parts thereof considered overfished or in danger of being overfished such that there is a need to regenerate the fisheries resources in that water
- ♦ Banning the use of compressors for fishing
- ♦ Banning the use of *payaos* and other fish aggregating devices in municipal waters
- ♦ Establishing marine protected areas and fee system for divers or other non-extractive activities
- ♦ Allowing the entry of small and medium-scale commercial fishing within 10.1 to 15 km from the shoreline area of municipal waters
- ♦ Providing for inter-LGU cooperation for integrated coastal area and fisheries management

municipality, and PhP 5,000 for the province for violations of *barangay*, municipal, or provincial ordinances, respectively. It is the role of NGAs, especially the DENR and BFAR to facilitate the dissemination of laws and administrative issuances to LGUs throughout the country.

Local legislators must be able to explain how certain regulatory mechanisms and prohibitions enacted will benefit the larger community. Fees for municipal water use, for example, may only encourage willful compliance if there is a clear system of allocation as to where the money will go. If, for instance, the community is made to realize that revenues accrued to the municipality go to fund CRM plans and programs or to a CRM trust fund, there are better chances that resource users paying for permits and licenses are more apt to voluntarily comply while informally exert pressure to those who are not complying.

Finally, local communities tend to automatically comply with local ordinances and regulations if they see that the benefits derived from complying outweighs that of not complying especially if they feel that the gains of the local government is returned to the people through efficient delivery of basic services, one of which is CRM.

MONITORING AND EVALUATION

Monitoring and evaluation is the fourth phase of the CRM process (Figure 2) and an important aspect of soft coastal law enforcement. Information and data gathered during monitoring are used to evaluate the effectiveness of the CRM plan, management measures, local legislation and regulations, and coastal law enforcement. Annual monitoring and evaluation provides the basis for making adjustments or refinements to the CRM plan and programs of the municipality to improve voluntary compliance.

Monitoring and evaluation will assist law enforcement planners determine the level of effectiveness of their law enforcement strategies. Coastal law enforcement issues identified in the PCRA (Phase 1, Figure 2) may serve as a baseline for monitoring the frequency and intensity of violations that will guide law enforcement planners in developing appropriate plans and strategies. There are many tools that may be used in monitoring and evaluating soft coastal law enforcement strategies. LGUs may request NGAs such as NEDA, DENR, DA, and DILG to provide technical assistance on the appropriate tools to monitor the level of public compliance to specific coastal law enforcement strategies.

Monitoring programs should be developed to track both processes and results using a set of measurable indicators (Table 10). Results indicators are used to monitor the outcome or impacts of these processes on behavior change and socioeconomic and biophysical conditions. Monitoring methods may include qualitative surveys and discussion groups or quantitative field assessment.

Table 10. Monitoring indicators and methods applicable to coastal law enforcement.

Process and results indicators			
Inputs	Outputs	Outcomes	Impacts
<ul style="list-style-type: none"> ♦ Participatory coastal resource assessment conducted to identify and prioritize coastal law enforcement issues ♦ Participatory planning conducted in formulation of the CRM plan ♦ Community dialogues and public hearings held to explain existing or new national and local laws and regulations 	<ul style="list-style-type: none"> ♦ Maps showing municipal water boundaries and coastal law enforcement issues and hot spots posted at municipal and <i>barangay</i> halls ♦ CRM plan prepared and adopted with management measures and coastal law enforcement strategies ♦ Local legislation enacted for CRM plan adoption and 	<ul style="list-style-type: none"> ♦ Fish wardens/<i>Bantay Dagat</i> actively monitoring and reporting violations of CRM-related laws ♦ Coastal law enforcement units conducting regular land-based and seaborne patrols and making arrests ♦ National and local laws, regulations, and CRM plan understood by coastal stakeholders 	<ul style="list-style-type: none"> ♦ Decreased violations or incidence of illegal activities in municipal waters and coastal areas ♦ Increased fish catch per unit effort ♦ Improved living coral cover ♦ Improved food security and income

(continued)

Table 10. (continued)

Inputs	Outputs	Outcomes	Impacts
<ul style="list-style-type: none"> ♦ Budget allocated for coastal law enforcement ♦ Training in coastal law enforcement conducted for local PNP, fish wardens, <i>Bantay Dagat</i>, and other LGU staff with regulatory authority 	<ul style="list-style-type: none"> ♦ required regulatory mechanisms ♦ National and local laws and CRM plan readily available at municipal and <i>barangay</i> level ♦ Fish wardens/<i>Bantay Dagat</i> deputized ♦ Licensed fish inspectors available for coastal law enforcement operations ♦ Local police trained ♦ Coastal law enforcement units organized ♦ Patrol boats and other assets provided 	<ul style="list-style-type: none"> ♦ Licensing and fee system established and operational regulating fishing and other uses of municipal waters and the coastal zone ♦ Marine protected area boundaries respected 	
Monitoring methods			
<ul style="list-style-type: none"> ♦ Establish Municipal Coastal Database ♦ Listing (or database) of types and dates of coastal law enforcement-related activities and number of participants ♦ Listing (or database) of types of coastal law enforcement trainings and participants 	<ul style="list-style-type: none"> ♦ Annual update of the Municipal Coastal Database ♦ Monitor job performance of coastal law enforcement unit including role of <i>Bantay Dagat</i> and MFARMC ♦ Focus group discussions to determine level of awareness of coastal laws and acceptance of coastal law enforcement efforts ♦ Key informant interviews to validate community perceptions and to determine readiness of coastal law enforcement units 	<ul style="list-style-type: none"> ♦ Annual update of the Municipal Coastal Database ♦ Data and document collection and analysis of key municipal and community actions such as MFARMC meetings, municipal ordinances, police blotter, judicial records, municipal budget and expenditures ♦ Community surveys to determine incidence and types of violations and level of compliance with coastal laws 	<ul style="list-style-type: none"> ♦ Improved database used for planning ♦ Participatory coastal resource assessment to monitor change from baseline conditions ♦ Municipal fish stock assessment to determine changes in catch per unit effort ♦ Underwater assessments of marine sanctuaries to assess changes in biophysical indicators ♦ Socioeconomic assessment of changes in municipal and community well-being

Monitoring information necessary to track coastal law enforcement comes from the LGU records, police blotters, and judicial records. Community surveys and key informant interviews provide information on the incidence of illegal fishing and other CRM-related violations in the area. *Barangay*-level surveys can provide valuable information and feedback on the effectiveness of coastal law enforcement efforts (Table 11).

Table 11. Coastal law enforcement survey for barangay.

1. How often are illegal fishing gear used in your municipal waters?

	Daily	Weekly	Monthly	Yearly
Use of cyanide or noxious substances to stun fish	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Use of fine-mesh nets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Use of dynamite	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Use of superlight	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Use of bottom trawl	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Use of other active fishing gear	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. What is the frequency of coastal law enforcement patrols?

	Daily	Weekly	Monthly	Yearly
Frequency of coastal law enforcement patrols	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Where do these illegal fishers come from?

- ☐ From your *barangay*
- ☐ From neighboring coastal *barangays*
- ☐ From neighboring upland areas
- ☐ From neighboring towns
- ☐ From neighboring provinces

Monitoring and evaluation may be undertaken by the local planning and development office, environment and natural resources office, agriculture office, office of the local chief executive or any special local body with a mandate in coastal resource management or coastal law enforcement. The MFARMC is also mandated to evaluate implementation of fisheries-related plans, and upon legislation by the *Sanggunian*, may also perform monitoring and evaluation function to include the area of coastal law enforcement.

INFORMATION MANAGEMENT

Information management is the fifth phase of the CRM process (Figure 2). Data and information collected during annual monitoring and evaluation must be properly managed for easy retrieval and analysis of trends in subsequent years. A variety of tools may be used in managing information from monitoring and evaluation. One such tool is the Municipal Coastal Database (MCD).

The MCD was designed to help simplify and standardize the monitoring and evaluation of CRM activities at the LGU level (CRMP 2000). The MCD contains data fields relevant to all aspects of CRM including those pertaining specifically to coastal law enforcement (Table 12). The MCD generates report cards, graphs, and charts to show trends in budgeting, resource status, organizational development, and law enforcement (Figure 7). The MCD may be operated using simple computers by anyone with minimum training and computer literacy.

Annual updating of the MCD should be completed and submitted to the province for consolidation and reporting. The provincial government can play a vital role in assisting coastal

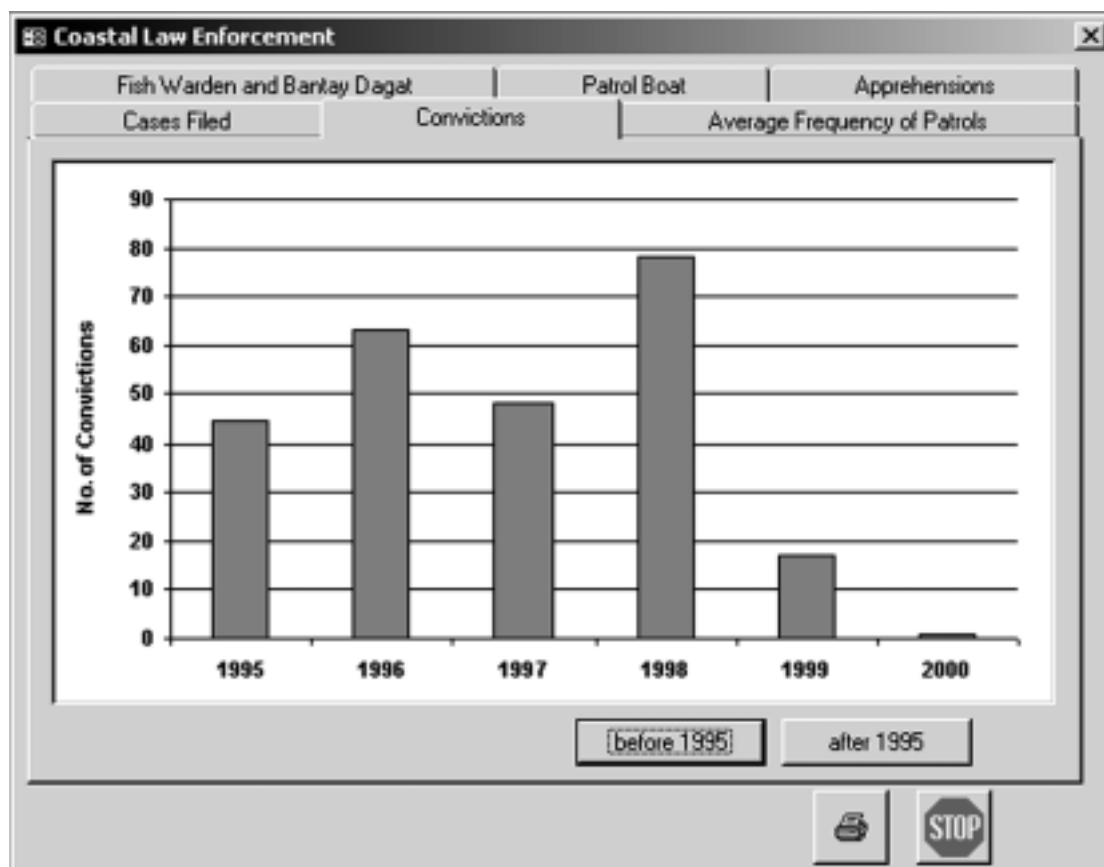


Figure 7. Sample law enforcement report for a municipality in the Province of Bohol generated by the MCD.

Table 12. Illustrative data fields pertaining to coastal law enforcement in the MCD.

Report year	No. of deputized fish wardens/ <i>Bantay Dagat</i> members	No. of municipal patrol boats that are operational	Average frequency of <i>Bantay Dagat</i> patrol 1-low (once a month or less), 2-medium (common/weekly), 3-high (frequent/daily)	No. of apprehensions	No. of cases filed	No. of convictions	Source

municipalities and cities manage data and information. Provincial government should consolidate information and data from the MCD and other sources into a provincial coastal database (Figure 8). An annual report on the status of CRM in the province should be prepared and disseminated to the coastal municipalities and relevant regional offices of NGAs.

The evaluation of data contained in the MCD may guide both the NGAs and LGUs in adopting suitable management options in the area of coastal law enforcement. Figure 8, for example, shows that the number of apprehensions, cases filed, and convictions increases sharply when newly trained and equipped coastal law enforcement units begin operating. After a period of time, the number of apprehensions and patrol will decline as the percentage of population voluntarily complying with the law increases. This type of empirical information supporting the assumption that capacity building is directly related to voluntary compliance serves as a guide for LGUs to look into their training and equipment support budgets. Other information in the MCD has direct and indirect effects on coastal law enforcement.

The MCD may be lodged at the Planning Office, Environment and Natural Resources Office, Office of the Agriculturist or any appropriate office in the LGU. It is the duty of the information officers to disseminate information generated by the MCD to relevant offices in the local bureaucracy and to the larger community.

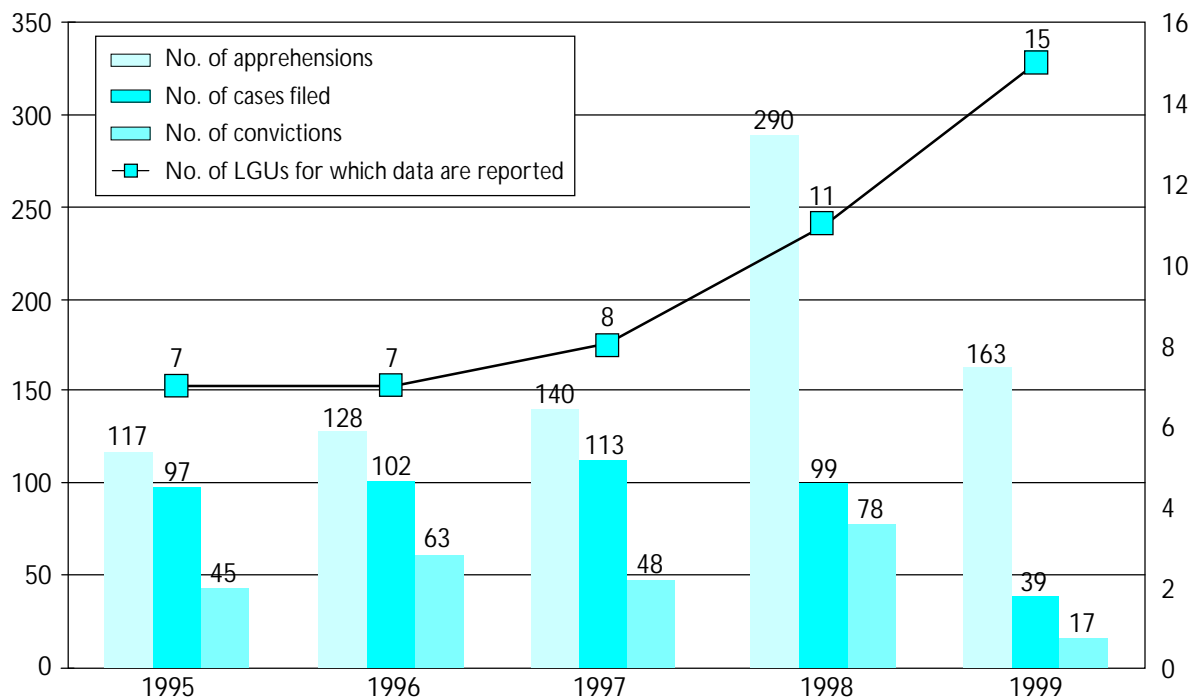


Figure 8. Trends in coastal law enforcement at the provincial level based on records in the MCD.

EDUCATION AND OUTREACH

Education and outreach is an integral part of all soft enforcement approaches. Knowledge of the basic reasons behind coastal laws designed to protect the common good provides the foundation for voluntary compliance. Education and outreach must be initiated at all levels of the society, from the decision-makers to the resource users, and at all stages in the CRM process. It must also take into consideration the sociocultural dynamics of the community, the appropriate social marketing instruments, and development and program support communication.

Decision-makers' education

A successful local education and outreach program emanates from informed decision-makers. Key decision-makers in the community are mostly bound by limited political terms of office such as the Governor, the Mayor, the *Sanggunian*, and the *Barangay* Chairman. Education and outreach programs therefore must establish a mechanism that addresses changing personalities in the local bureaucracy. This can be achieved by institutionalizing environmental education programs at both national and local levels.

The DILG through the Local Government Academy (LGA) is mandated to capacitate local chief executives by providing continuous education on all relevant issues of governance. Similarly, the DENR and DA have the mandate not only to provide technical assistance but to actually transfer appropriate technology to the LGUs to encourage self-determination. Adjunct to the changing political leaders are law enforcement officers, such as the head of the local police, whose decisions rely on good information available to them. The DILG and the PNP, the agencies that provide training and continuous education to the police, must also include coastal management subjects in their curriculum.

Community education

Community education and outreach programs must consider indigenous learning systems and cultural values systems. Indigenous learning systems refer to the inherent and time-honored mechanism by which local communities acquire information. Coastal communities are largely rural in nature and therefore communication avenues available to them may have stark difference from that of the urban communities. Many urban communities acquire information from television and newspapers while most rural communities get theirs from *pulong-pulong* (meetings) of *barangay* leaders, others from gatherings called on by informal leaders such as clan elders or the local church leaders while others from comic strips and soap operas provided by AM radio.

Cultural value system refers to the set of norms or conduct, traditional knowledge, and beliefs that prevail in communities. A cultural value system is the natural mechanism by which order is maintained in communities because it has its own set of informal rewards and punishments (Panopio *et al.* 1992). Laws, ordinances, and even local plans that come into conflict with the cultural value system may result in problematic enforcement especially if education and outreach programs that support them are weak. Some communities in fact do not acknowledge their actions as violative of any law when such actions are regarded as traditional as in the case of whale hunting. Others comply only in the presence of law enforcers. But what remains to be explored further is how newly introduced restrictive acts are harmonized with the existing belief system and practices with minimal or no resistance at all from communities.

Working within the cultural value system is important not only for inputting knowledge but in promoting behavioral change over time. The law, with its rewards and punishment, as a “social product” can only be socially accepted if certain sociocultural attributes of the community are incorporated in the enforcement design. It should be noted that the Philippine value system such as *hiya*, *utang na loob*, *pakikisama*, and others have bi-polar character (Panopio *et al.* 1992) meaning they can be used both to justify violation and uphold the law at the same time (Table 13).

Table 13. Examples of bi-polarity of the Philippine value system (Andres 1985, 1998).

Cultural value	To the detriment of the law	To the advantage of the law
<i>Hiya</i> (shame)	<ul style="list-style-type: none"> Community members are ashamed to confront or report neighbors who engage in illegal fishing activities if such activity is rampant in the community 	<ul style="list-style-type: none"> Community members are ashamed not to confront or report neighbors who engage in illegal fishing especially when most members of the community comply with the law (<i>pakikisama</i>)
<i>Utang na loob</i> (debt of gratitude)	<ul style="list-style-type: none"> Enforcers find it difficult to apprehend violators to whom they are beholden 	<ul style="list-style-type: none"> Enforcers are ashamed (<i>hiya</i>) not to enforce the law especially when they are beholden to the community and its leaders
<i>Pakikisama</i> (smooth interpersonal relationship)	<ul style="list-style-type: none"> Fisherfolk are compelled to join peers in illegal activities to show their unity with them 	<ul style="list-style-type: none"> Fisherfolk avoid joining peers who engage in illegal activities to show unity with the community
<i>Bahala na</i> (fatalism)	<ul style="list-style-type: none"> Fisherfolk challenge the law as a means of gambling their fate 	<ul style="list-style-type: none"> Fisherfolk uphold the law (<i>paninindigan</i>) and leave their fate to whatever they can gain from it
<i>Mahigpit na pagkakabigkis ng pamilya</i> (strong family ties)	<ul style="list-style-type: none"> Fisherfolk are compelled to engage in illegal activities when family survival is at stake 	<ul style="list-style-type: none"> Fisherfolks avoid engaging in illegal activities as this may hinder chances (<i>bahala na</i>) of the family from improving economically if one member is apprehended
<i>Paggalang sa matatanda</i> (respect for elders)	<ul style="list-style-type: none"> Younger generations do not correct wrongdoings or wrong notions of the elders who engage in destructive fishing because it is a sign of disrespect 	<ul style="list-style-type: none"> Younger generations correct wrongdoings of elders with the intention of protecting them from possible harm (<i>mahigpit na pagkakabigkis ng pamilya</i>)
<i>Personalismo</i> (personalism)	<ul style="list-style-type: none"> Local leaders are lenient in throwing the books at violators with whom they have personal ties especially if they are relatives or friends 	<ul style="list-style-type: none"> Local leaders are ashamed (<i>hiya</i>) of not prosecuting violators with whom they have personal ties especially if they are beholden (<i>utang na loob</i>) to the community who put them to power
<i>Hospitalidad</i> (hospitality)	<ul style="list-style-type: none"> Community members are lenient to visitors and outsiders such as tourists, as good hosts, even if they violate coastal laws 	<ul style="list-style-type: none"> Community members, as good hosts, forewarn visitors of possible difficulty they may encounter if they violate coastal laws
<i>Paninindigan</i> (conviction)	<ul style="list-style-type: none"> Community leaders stubbornly circumvent the law to keep up with their image or stand by a previous pronouncement even if proven wrong 	<ul style="list-style-type: none"> Community leaders enforce the law at all cost even if political risk is high
<i>Pagtitais</i> (endurance)	<ul style="list-style-type: none"> Community members endure the hardships attached to <i>muro-ami</i> operations to survive 	<ul style="list-style-type: none"> Community members endure the little gains of complying with the law instead of supporting illegal activities

Coastal law enforcers and community decision-makers hence must be able to use these values to serve the purpose of the law before others exploit them. Planners must look at conditions whereby positive use of cultural values are maximized. The municipal social welfare and development officer, whose training is usually on community organizing and community management, will be in the best position to assist CRM planners and coastal law enforcers in designing a management option with cultural flavor. NGOs, POs, the academe working with cultural communities or those academicians specializing in sociological or anthropological studies may also contribute their knowledge and experiences in understanding cultural value systems as they apply to law enforcement.

Social marketing

There are many social marketing instruments available for education and outreach programs on a national scale, namely: production of specialized training modules on coastal law enforcement; conduct of conferences, seminars, and conventions; publication of posters, flyers, and brochures; organization of special events; advertising, media advocacy, public relations; and celebrity endorsements, among others. To complement national programs, LGUs may put up community signboards; utilize public communication media such as local government-run television and radio stations; conduct periodic dialogues, seminars, and training of key stakeholders; initiate community stage plays, puppetry, and role playing through the *Sangguniang Kabataan* and the youth sector; utilize ecclesiastical opportunities such as pastoral letters, fellowships, and all other modes of worship; and network with POs, NGOs, and informal leaders who may have influence on the community. Some LGUs and FARMCs have their own newsletter and programs on the local radio station.

Contrary to popular beliefs, social marketing strategies need not be expensive. Signboards posted in municipal and *barangay* halls, for instance, are effective means of legal marketing and advertising CRM plans and programs and law enforcement interventions (Figure 10). Private-run broadcast media organizations may also air developmental modules upon endorsement of the PIA.

Development and program support communication

This refers to the development, production, and dissemination of IEC materials whether print, broadcast, dramatic, or other visual arts. Ideally, this communication strategy is two-way with information provided to and by the community and jointly developed by program implementors and key members of the community. The result of this communication exercise thereby becomes the product of the community. Community ownership of communication messages is essential in incorporating the cultural value system within the communication process. There is no uniform way of doing development and program support to communication because the effectiveness of communication instruments are area-specific and culture-bound.

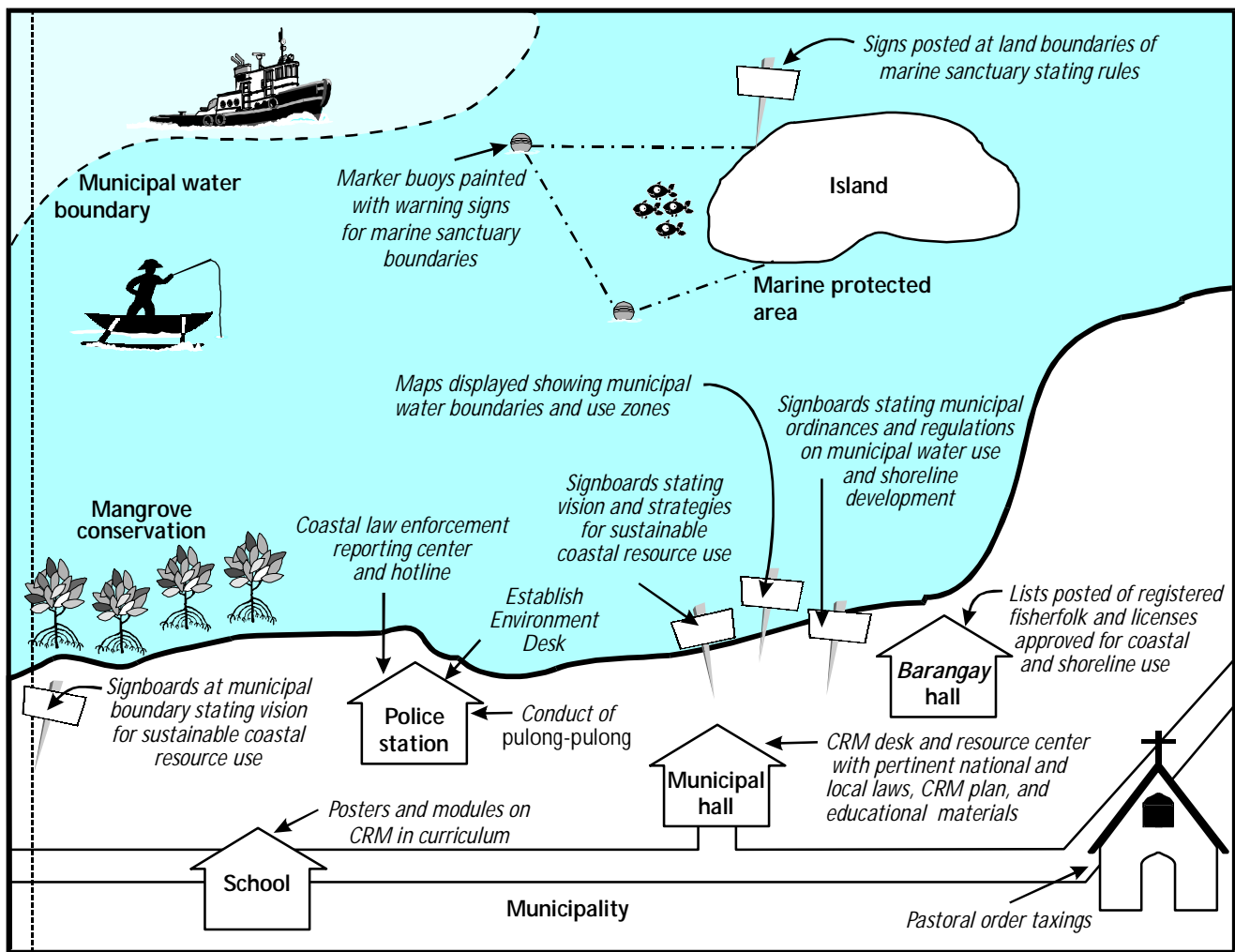


Figure 9. Social marketing strategies to promote compliance with coastal laws.

Some communities are receptive to broadcast programs especially among island towns that depend on the radio broadcast on almost all information needs on a day-to-day basis. Others are more inclined to monitoring exercises such as keeping logbooks with which to provide chronological records that may be useful for establishing trends, documenting violations of local ordinances, or substantiating advocacy campaign. Other communities have ready support structures such as a CRM office or resource center or CRM Desk that may showcase documents such as the *Philippine Coastal Management Guidebook Series*, copies of the LGC, the Fisheries Code, administrative issuances and other national and local laws relevant to CRM. In some areas, police stations, coast guard stations, NGOs and POs are able to provide communication materials on CRM.

NETWORKING AND ALLIANCE BUILDING

Networking and alliance building is necessary to improve communication exchange between and among coastal stakeholders and in maintaining a coastal law enforcement continuum from prevention, apprehension, prosecution, and imposition of penalty (Table 14).

Table 14. Networks and alliances in the coastal law enforcement continuum.

Prevention/ Regulation*	Apprehension	Prosecution	Imposition of penalty
DILG	-	-	-
PNP	PNP	PNP	-
PCG	PCG	PCG	PCG
DA-BFAR	DA-BFAR	DA-BFAR	DA-BFAR
DENR	DENR	DENR	DENR
DOJ/NBI/NPO	DOJ/NBI	DOJ/NBI/NPO	-
DSWD	-	-	-
DOLE	DOLE	DOLE	DOLE
CSC	-	CSC	CSC
PIA	-	-	-
Supreme Court	-	Supreme Court	Supreme Court
Court	-	Court	Court
LGU	LGU	LGU	LGU
FARMC	FARMC	-	-
<i>Bantay Dagat</i>	<i>Bantay Dagat</i>	-	-
Media	-	-	-
Academe	-	-	-
Leagues	-	-	-
Civil society	-	-	-
Law groups	-	Law groups	-
Church	-	-	-

* There are various agencies that may take part in the prevention aspect of law enforcement such as the Department of Education, Culture and Sports, Armed Forces of the Philippines, among others.

Networking involves linking diverse individuals and groups to bring about mutual agreement and share each other's information resources and competencies to serve a common interest. For a network to be effective, it must follow a set of guiding concepts, namely: mutual access, participation, common frame of reference, shared communication, shared leadership and followership, coordination, interdependence, complementarity, problem-solving capacity, non-adversarial approach to conflict resolution, work improvement, and capacity to disseminate information and promote behavior change (UNICEF-UP 1999).

National networks and alliances

A minimum network in a successful coastal law enforcement program on a national scale involves the DENR, DA-BFAR, DILG, PNP, PCG, DOJ, and the Courts. General environmental law is lodged at the DENR while fishery laws are with the DA-BFAR. On the other hand, since most of the environmental enforcement functions are already devolved to the LGUs, the DILG plays an important role because it links the LGUs with the PNP. The PCG meanwhile has the technical and logistical capability to enforce coastal laws, although still on a limited scale. The DOJ takes the role of assuring a successful prosecution so that the courts may render appropriate judgment. Other agencies mentioned in Chapter 2 would be ideal members of a network or an alliance to achieve optimum results. There is a related discussion on Chapter 7, *Emerging Trends in Coastal Law Enforcement*, concerning a history of networks and alliances on a national level.

Local networks and alliances

A good national network translates to good local networks and alliances if NGAs would involve their regional and provincial offices. In local networks and alliances, the civil society and the LGUs assume the lead role. LGUs may establish networks with other LGUs, NGAs, private sector, professional organizations, academe, religious institutions, and even traditional leaders.

The gains of an effective networking can be felt from advocacy work, information exchange, technology transfers, negotiation and bargaining, critical collaborations, policy dialogues, and inter-agency coordination. Networks and alliances pave the way for effective participatory planning involving multi-level partners and stakeholders. PCRA could be a start in establishing networks that could mature into a formal alliance. Networks and alliances work best in support of essential legislation and regulation. They also enhance monitoring and evaluation because of the different perspectives available in analyzing data. Lastly, education and outreach which involves mobilizing resources and communities has a greater impact if undertaken in a collaborative effort.

Networking and alliance building for social mobilization

Devolution and decentralization as trends in local governance make networks and alliances at both national and local level more imperative. It cannot be overstated that NGAs, LGUs, and other sectors of the society mandated to enforce the preventive and corrective aspects of coastal laws can only be successful if all agencies are mobilized to achieve a common objective.

As can be seen in Table 14, Philippine laws are more biased towards preventive aspect of law enforcement rather than the apprehension, prosecution, and judgment. Law enforcement planners and decision-makers therefore must device as many tools as possible on the soft enforcement approaches to avoid future complications in coastal law enforcement. Ultimately, the real success in coastal law enforcement will not be gauged by the number of patrols, arrests, seizures, and prosecutions but by the extent of the coastal resources saved from illegal and destructive activities.



ELPIDIO DELA VICTORIA

Public display of disapproval by local government officials and law enforcement agencies of illegal fishing activities sends a strong message that deters possible violators of the law.



MARLITO GUIDOTE

Local government officials and law enforcement agencies need to continuously educate themselves on the changes in laws and processes that affect the coastal environment. Picture shows a PCG officer orienting LGU representatives and local police on the documentary requirements for commercial fishing operations.



ROSARIO FARRARONS

Information management through the use of computers and databases is vital in coastal law enforcement planning.



ROSARIO FARRARONS

The youth sector plays a vital role in education and outreach programs of LGUs to combat illegal and destructive fishing practices. Picture shows meeting of "I Love the Ocean" movement.



MARLITO GUIDOTE

LGUs may tap experts from NGAs, universities, donor agencies, and NGOs who will be able to train locals on resource assessment. Picture shows coral reef assessment training for members of the PCG and LGU representatives in Cebu.

chapter 5

Hard coastal law enforcement approaches to achieve general and special deterrence

Hard coastal law enforcement approaches are necessary to achieve general deterrence for that portion of the targeted population that does not respond to soft approaches (Figure 3). These approaches are used for violators who are willing to risk apprehension and prosecution. This chapter describes the enforcement process, specific strategies to deter violators, and criminal and administrative processes that are available to impose legal sanctions.

The coastal law enforcement process phases and flow are detailed in Figure 10. The order in which the phases are followed depends upon whether operations (and interdictions) are carried out on land or sea. In most cases, criminal charges are brought after apprehension and lead to prosecution. In some cases, a criminal case may be filed in court without first arresting the accused. Intelligence may also reveal certain types of violations that can be halted through the administrative review procedure. During this alternative process of administrative review, there may be no need for actual operations and interdictions, but a sanction is still sought.

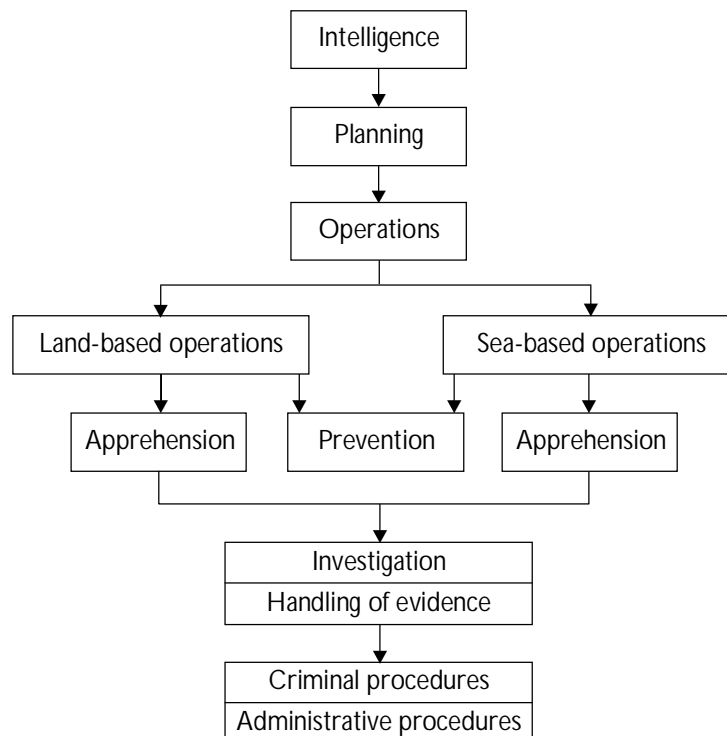


Figure 10. Enforcement flow chart.

Hard coastal law enforcement approaches are carried out primarily by uniformed law enforcement officers of the PNP, PCG, and AFP. In the Philippines, community-based sea watch groups or *Bantay Dagat* and deputized fish wardens play a vital role in assisting uniformed law enforcement officers through intelligence gathering and patrolling.

INTELLIGENCE AND NETWORKING

Intelligence is information needed by coastal law enforcers to make decisions, reduce uncertainty, cope with changing situations, and pre-empt compromise. Intelligence is important to planning and conducting successful coastal law enforcement operations. Phases of the intelligence cycle include planning, collecting, processing, and dissemination. Intelligence requirements and identification of appropriate sources of information are determined during the planning phase. Information is collected and processed into a usable format. Information analysis and evaluation should consider previous intelligence or records. Intelligence is disseminated to appropriate units or offices. The dissemination of intelligence is generally controlled on a “need to know” basis where only authorized personnel are allowed to have the information.

All uniformed law enforcement agencies and military organizations have an intelligence branch or section in their respective national, regional, provincial, district, city, or municipal offices. Other line agencies with regulatory powers such as the BFAR have a Monitoring, Control and Surveillance (MCS) division whose function is to assure compliance and therefore acts as the agency’s intelligence arm.

LGUs, as the forerunner of public order and safety, have a budgetary allotment called the Intelligence Fund, which may be utilized at the discretion of the local chief executives. The Intelligence Fund may support coastal law enforcement initiatives. DILG maintains a *barangay*-based network called Barangay Intelligence Network (BIN) whose primary responsibility is to monitor and report all threats to public safety in their areas of responsibility. Many of these intelligence branches belong to a larger network called the intelligence community which supports the information needs of the national government for various purposes. Their sources of information come directly from the field and those volunteered by the general public through formal reporting mechanisms such as police blotters.

Intelligence is divided into three levels, strategic, operational, and tactical, depending on its purpose, scope, and detail (U.S. Coast Guard 2001). Strategic intelligence is required for macro-scale planning and policy decisions at national or international levels. Operational intelligence is required for planning and executing all types of operations. It describes the nature of the violations, location, timing, and suspected persons involved with illegal activities. Tactical intelligence is required for the planning and execution of specific tactical operations. It may include information about lunar cycles governing the timing of commercial fishing operations, boat landings known to be used by illegal fishers, or routes taken by illegal fishers to and from fishing grounds.

Intelligence used for enforcement planning may be gathered using a variety of methods and sources. An intelligence network composed of *barangay*, municipal, provincial, and regional sources should be established to enable the collection of different types of information needed to develop enforcement strategies and plan enforcement operations. This network may include local chief executives, Regional Executive Directors of NGAs, Police Chiefs, and NGOs that together identify and map coastal law enforcement priorities (Figure 11). This type of networking can be facilitated through the conduct of multisectoral workshops or forums. With priorities identified, coastal law enforcement objectives and strategies can be defined, coordinated, and operationalized at multiple levels to achieve a common result.

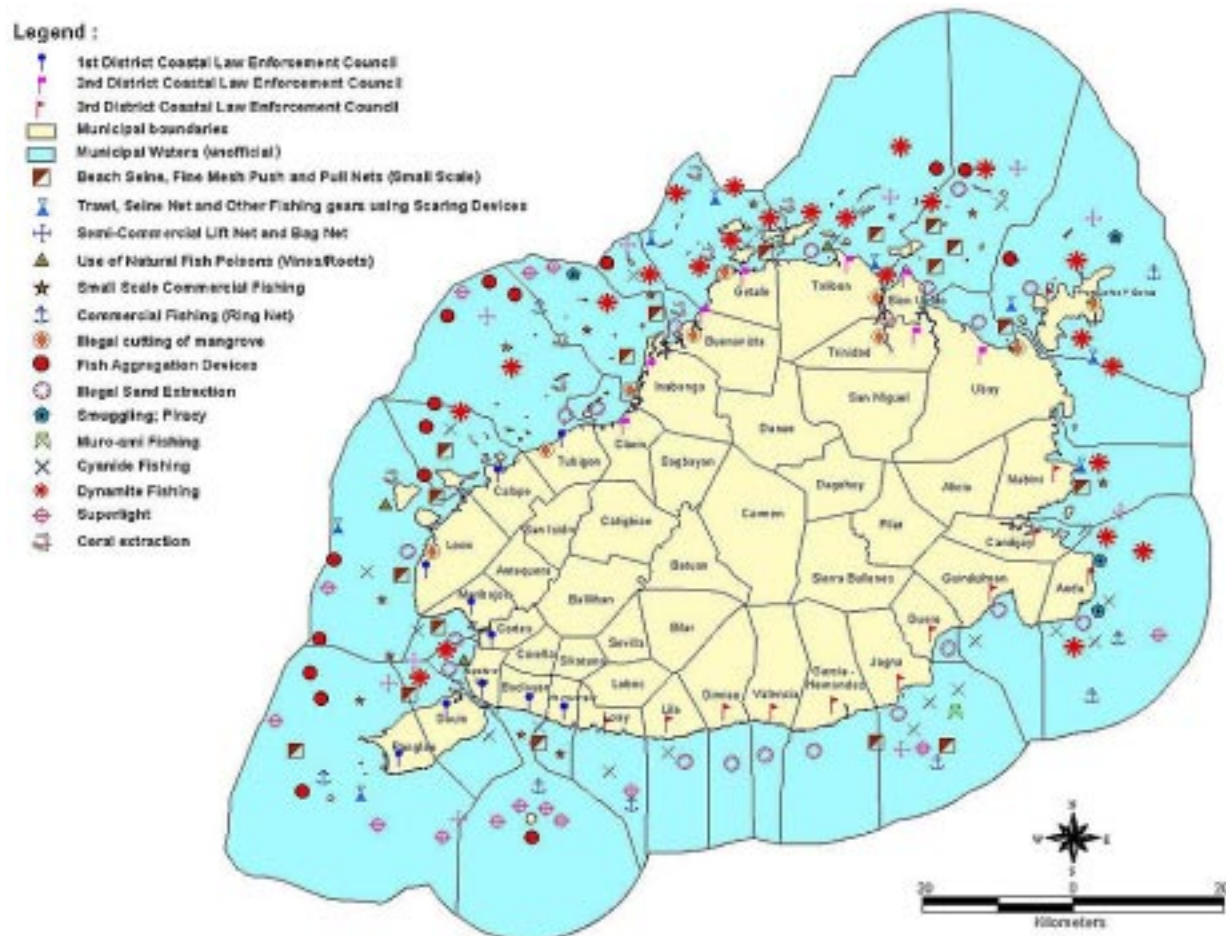


Figure 11. Coastal law enforcement issues in coastal areas and municipal waters of Bohol developed through the participation of multisectoral networks.

Intelligence should be grouped into files based on relatedness of the information. Intelligence case files may be organized by:

- ♦ Name of person known or suspected to be a violator. Important background information includes places of employment, known hangouts, and associates. This information can be obtained from informants or supplied by other intelligence centers;
- ♦ Place or area where illegal activities are suspected to be occurring;
- ♦ Nature of the alleged violations;
- ♦ Manner in which offense was committed;
- ♦ Vessel identified or suspected of being used in illegal activities. The intelligence should contain the home port and other ports visited regularly, sea lanes or routes utilized as well as a list of other vessels known to be associated with the suspect vessel. It is important to know the *modus operandi* previously used and suspected hiding spots of the vessels in question; and
- ♦ Capability of the violator in terms of firearms, communications, number of violators, equipment, and training.

ENFORCEMENT PLANNING

Enforcement planning is necessary for organizing intelligence gathered and personnel and resources available for the conduct of efficient and effective coastal law enforcement operations. An operations plan (OPLAN) should be developed to guide coastal law enforcement operations (Table 15). The purpose of an OPLAN is to organize operational information in one usable document for all participating coastal law enforcement units.

Table 15. Outline of a typical operations plan for coastal law enforcement¹.

1. **Situation:** provides a background on relevant information needed to describe the area and coastal law enforcement issues for which the plan is developed to address.
2. **Mission:** describes the overall objective of the plan.
3. **Execution**
 - a. **Concept of operations:** contains an overview of the plan.
 - b. **Surface operations:** describes sea borne tactics to be employed by single or multiple enforcement units.
 - c. **Land-based operations:** describes land-based tactics to be employed by single or multiple enforcement units.
 - d. **Tasking:** describes the roles and responsibilities of agencies and organizations involved in the operations.
 - e. **Coordinating instructions:** provides instructions to all units on rules of engagement, safety, human rights, uniform requirements, and responsibility for confiscated items.
4. **Administration and logistics:** provides a comprehensive plan for the maintenance and upkeep of the units involved during the operation. Matters of food, fuel, crew relief, medical assistance, and unit repair procedures are outlined.
5. **Command and signal:** describes the chain of command for the operation.

(continued)

Table 15. (continued)

Annexes:

- a. **Task organization:** provides organizational structure and tasking for the operations including: Patrol Commander, Senior Watch Officer, Assistant Senior Watch Officer, Public Information Officer, On-Scene Commander, and law enforcement units.
- b. **Security plan:** describes how the OPLAN will be protected against compromise and includes security classification if applicable.
- c. **Asset list:** lists the capabilities and endurance of all assets available for the conduct of coastal law enforcement operations.
- d. **Intelligence plan:** describes all methods of gathering intelligence. Informant's code names, locations, and reporting procedures are given. Any other intelligence instruments are listed here along with their function. This section may require a higher classification than the rest of the OPLAN and may need to be developed as a separate document.
- e. **Reports plan-required report:** lists types of reports required before, during, and after operations including Actual Departure Report (ADR), Position Report (POSTREP, every 4 hours), Actual Arrival Report (AAR), Spot Report (after any significant event), Progress Report (after every significant development on each case), and After Operation Report (AOR) (comprehensive report after operation is completed)
- f. **Communications plan:** contains the radio frequencies to be used, codes, daily changes to the codes, and back-up frequencies if needed.
- g. **Map:** provides maps of appropriate scales to show overall area of operation and subsectors if appropriate.

Distribution: lists the names and locations of each copy of the OPLAN

¹The OPLAN need not be too long and will contain each section as required.

An OPLAN may be developed to define coastal law enforcement priorities in a municipality, cluster of municipalities, province, or region and a may provide a menu of coastal law enforcement strategies to address these priorities. As such, an implementing plan (IMPLAN) may be developed for specific operations that have a defined purpose and duration such as a single market denial operation on a given day or more general operations involving patrolling municipal waters.

ENFORCEMENT OPERATIONS

Enforcement operations are field activities undertaken by law enforcers to implement preventive and corrective measures identified in the OPLAN. The specific objectives of enforcement operations are to: (1) collect additional intelligence concerning illegal activities in the marine environment; (2) establish the presence of law enforcement units as deterrence, and (3) detect, prevent, and suppress violations of laws and regulations. In the field, operations are the direct; "hands-on" approach to enforcement, where the ultimate objective is to ensure compliance of coastal regulations and laws by physically deterring, interdicting, and apprehending violators. This section describes some of the operational tactics and procedures used in conducting coastal law enforcement operations.

Operational tactics

Operational tactics are specific land-based or sea-based activities that can be used singly or in combination in the conduct of enforcement operations. A menu of land-based and sea-based operational tactics is found in Table 16. The use of various operational tactics is dependent on a variety of factors including the mission articulated in the OPLAN, available personnel and resources, and geographic and other physical factors.

Table 16. Operational tactics used in coastal law enforcement.

Tactic	Description
Visibility patrol	Visual and obvious presence of law enforcers in area, e.g. patrolling of municipal waters using marked sea vessels and presence of uniformed law enforcers in an area.
Covert patrol	Secretive presence of law enforcers in the area normally conducted by plainclothes operatives using unmarked land vehicles or sea vessels. Also known as undercover operations, e.g. used to monitor possible illegal activities and gather information usually conducted secretly by law enforcement operatives.
Deceptive tactics	Planned operations that attempt to mislead the targets of enforcement, e.g. is deliberate leaking of wrong information about the operations.
Single unit law enforcement patrol	Operations conducted by a single unit of a law enforcement agency.
Multi-unit law enforcement patrol	Operations jointly conducted by multiple units of law enforcement agencies in a particular area.
Barrier patrol	Conduct of operation in land borders or municipal water boundaries, also known as border patrol operations.
Blockade	Deliberate attempt to restrict or regulate passage of land (checkpoints, road blockade) and sea (coastal/harbor blockade, chokepoints) transportation.
Harbor patrol	Operations conducted in harbors, wharfs, or ports.
Harbor watch	Monitoring of markings and movements of sea vessels passing through the harbor with the objective of detecting violations perpetuated by vessels or persons.
Foot patrol	A continuous and regularly scheduled presence of law enforcers in a particular path in the shoreline, normally conducted in strategic areas of the shoreline.
Market denial	Detection and confiscation of illegally caught fish or protected species at the marketplace or while en route to the market via blockade or checkpoint. Market denial negates the economic benefit derived from illegal fishing.

(continued)

Table 16. (continued)

Tactic	Description
Directed raids	Planned operation involving a surprise attack or invasion of a property suspected to be involved in illegal activity. It may only be conducted by uniformed personnel authorized by a warrant or as provided for in the rules of court.
Random patrol	An unscheduled, unplanned patrol operation normally conducted by a single enforcement unit in a predesignated area.
Joint operations	A systematized or institutionalized cooperative effort between various law enforcement agencies bound by a formal agreement.

Geographical and environmental conditions should be assessed in selecting specific tactics for a particular operation. The locations of reefs or submerged hazards, small islands, dead spots in radio communications, and *barangay* outposts should be known and identified on a map. Water depth and accessibility by small boats, constricting water ways, main roads and thoroughfares, weather conditions should all be assessed in terms of assisting or hindering operations.

Land-based operations

Most land-based operations in coastal law enforcement are preventive in nature. Examples of effective tactics employed in preventive land-based operations are overt presence of law enforcers in coastal areas through foot patrol in the shoreline and establishment of checkpoints and harbor watch. Land-based operations are inexpensive and may often be more effective compared to seaborne patrols. Random patrols on the shoreline and spot inspection of fishing boats before going out to sea may also be a useful strategy to prevent violations. In the case of blast fishing, for instance, intelligence networks built on addressing the sources and suppliers of explosives and their paraphernalia may prove to be more effective in preventing dynamite fishing on a larger scale.

Market denial operations are corrective in nature but may also be preventive in the long run if conducted regularly. Surveillance on fish landings of illegally caught fish, arresting known traders, suppressing them at the market by legal seizure of fish catch may discourage both dealers and illegal fishers to engage in such activities.

Seaborne operations

Seaborne patrols are mostly corrective in nature especially if they involve search, arrest, and seizure. They are more effective if tactics involved are covert, deceptive, and directed to specific targets such as commercial fishing vessels intruding in municipal waters. Boarding protocols and inspection techniques; rules on search, arrest, and seizure; rules of engagement; and evidence handling are the most important tools employed in seaborne operations. Seaborne operations always involve risk. They are expensive as they are complicated and therefore should only be conducted and led by well-trained law enforcers.

Boarding procedures and inspection techniques

During the course of a seaborne operation, it may be necessary to board a vessel for the purpose of inspection, search, seizure, and arrest. Boarding procedures are protocols that guide coastal law enforcement officers in the safe approach and embarkation of a maritime vessel. An overview of standard boarding procedures is provided in Table 17. While boarding procedures are used primarily during seaborne patrols to identify and verify potential violators, these procedures can also be used to board vessels dockside for inspection of commercial fishing and other types of maritime vessels.

Table 17. Overview of boarding procedures used to inspect or search maritime vessels.

Boarding procedure	Purpose
Pre-boarding observations	To gather and record information that may be used to assist in developing a plan, determining the degree of risk, and developing probable cause that a violation of law exists
Boarding team briefing	To organize and brief the boarding party on all circumstances surrounding the boarding of the subject vessel
Boarding instructions to subject vessel	To ensure the vessel's captain understands the boarding team's intentions
Boat crew brief	To inform the vessel's crew of their tasks and responsibilities
Embarkation	To safely board the vessel in an orderly manner directed by the boarding officer
Disembarkation procedures	To safely depart the vessel in an orderly manner designated by the boarding officer
Debriefing	To evaluate the boarding and identify mistakes and activities done well
Reporting	To brief the superiors as to exactly what took place during the boarding

The boarding team should consist of an appropriate number of trained law enforcers with at least two coming from the uniformed service. To be effective, the lead enforcement officer is responsible for directing all boarding operations and briefing the boarding team. Boarding requires expertise and experience currently found only in the PCG or PNP-MG whose officers are specially trained in boarding maritime vessels. Boarding officers training is highly recommended for local police in each municipality who may be assigned to coastal law enforcement operations.

Before boarding a vessel, the law enforcement officer should make a series of observations on the type, activities, and potential problems that may be encountered when boarding (Table 18). Pre-boarding observations are necessary to determine the degree of risk and to establish personnel,

Table 18. Pre-boarding observations.

Type of information	Purpose
Vessel location	To determine the approximate position of the vessel, e.g. latitude/longitude, inside municipal waters
Vessel activity	To determine the activity of vessel, e.g. anchored, stationary, in transit, fishing as evidenced by smoke, wake, gear in the water, or other signs that can be spotted from a distance
Type of vessel	To determine the vessel type as fishing, cargo, or passenger, approximate length, and tonnage as more or less than 3 GT and to determine the feasibility of boarding the vessel
Vessel markings	To identify any distinguishing features, suspicious or unusual markings on the vessel especially on the hull and stern. Stern markings determine the homeport and registration of the vessel
Gear of the vessel	To determine the type, position, and other characteristics of the gear used by the vessel
Course and speed	To establish course and speed of vessel in transit
Electronics (kind and purpose)	To determine if radio contact can be made and navigational equipment is present
Number of persons visible on board and movements	To ascertain the typical activities of the crew and crew numbers
Crew and vessel reaction to law enforcement presence	To determine change in activity of the crew or vessel
How persons on board are dressed	To ascertain if the origin of people on board is foreign
Weather and sea conditions	To determine feasibility and safety of boarding

equipment and arming requirements. An assessment of the feasibility of boarding, based on weather and sea conditions, and feasibility of transfer of personnel from one vessel to another should be made.

After gathering and analyzing the pre-boarding observations, the lead enforcement officer decides whether boarding will be conducted or not or whether boarding can only be conducted with assistance from other coastal law enforcement units. In some cases, the lead enforcement officer can request that the captain of the subject vessel to hand over documents for inspection without boarding. In deciding whether boarding should be conducted, the first and foremost consideration should be the safety of the boarding team.

If boarding is to be conducted, the lead enforcement officer briefs the boarding team on all circumstances and possible violations surrounding the subject vessel and reviews roles and responsibilities of each team member. A review of equipment and uniform needs is made prior to boarding (Table 19).

Table 19. Recommended uniform requirements and equipment for boarding.

Mandatory

Dependable patrol boat
Life jacket
Flash light/emergency light
Sailing and harbor chart
Parallel ruler
Dividers
Compass
Still camera
Handheld GPS
Pen/markers and paper
Necessary forms
Boarding checklist
Binoculars
Knives/service pistol (for uniformed enforcers)

Evidence bag/container and tags
Tape measure/ steel tape
Two-way radio
Protective gloves

Optional

Sounding tape
Handcuffs and key
Compact tape recorder
Compact video recorder

Boarding instructions are then issued to the subject vessel. First, the boarding team attempts to establish radio contact. If no response is received, shouting or motioning from a distance can be employed. The lead enforcement officer should inform the captain of the subject vessel of the intention to board and instruct him to stop the vessel or maintain course and speed, to not assist the boarding team board the vessel, and to gather identification documents and vessel papers.

Before boarding, all crew of the subject vessel are instructed to move to the bow of the boat. The captain is instructed to stay at the helm or wheelhouse. The boarding team boards and first secures the crew at the bow and captain in the wheelhouse (Figure 12). At least one armed law enforcement officer should stay with the crew at all times. An armed law enforcement officer and boat operator should remain on the patrol boat. The rest of the boarding team conducts the inspection, one at the wheelhouse with the captain to check documents and others divide the vessel into starboard and port sides for inspection.

Depending on the results of the search and inspection, the boarding team disembarks or makes an arrest. A debriefing is conducted to review and critique the operation. The results of the boarding are communicated through the chain of command or leadership.

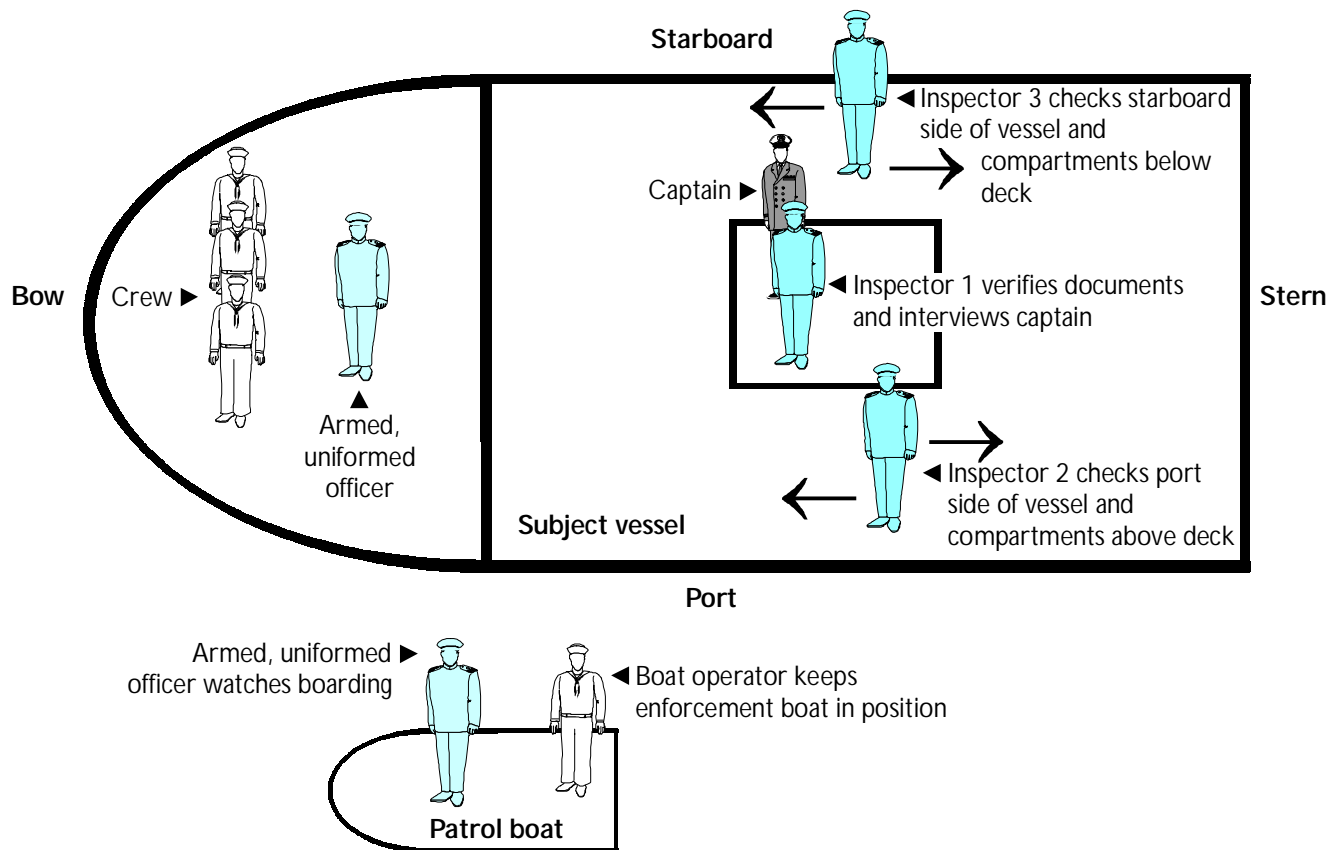


Figure 12. Positioning of boarding team on vessel to be inspected.

RULES OF ENGAGEMENT

While in the conduct of any type of operations, coastal law enforcers, whether belonging to uniformed service or legally mandated to perform law enforcement functions are strictly required to observe internationally accepted rules of engagement and those specifically stated under rules on criminal procedure of the rules of court; Supreme Court decisions and all other applicable references and guidelines such as the PNP rules of engagement to preclude the unnecessary or excessive use of force in the performance of their duty (PNP Manual 2001). Rules of engagement cover procedures on effecting search, arrest, and seizure and reasonable use of force in the performance of coastal law enforcement functions.

Search, Arrest, and Seizure

Search, arrest of person, and seizure of properties may occur when boarding and inspecting maritime vessels. It is therefore advisable that only trained and uniformed law enforcers should conduct search, arrest, and seizure operations. While police officers and public officials such as

the PNP, PCG, and other public officials and those provided under Sec. 124 of RA 8550 may be allowed to board a maritime fishing vessel during inspection, only trained officers should conduct the actual inspection. Minimum information obtained during an investigation of a maritime vessel is listed in Table 20.

Table 20. Minimum information obtained during an investigation of a maritime vessel.

Name of vessel
Nationality/flag of vessel
Vessel registration/documentation/official number
Length overall
Tonnage
Purpose of voyage
Last port of call
Next port of call
Master/Operator's name
Master/Operator's date of birth
Master/Operator's citizenship
Number/nationalities, names, and date of birth of additional persons on board
Whether there are weapons on board
Documentation request and review:
Certificate of seaworthiness
Commercial vessel operators/masters license
Commercial fishing license (if applicable)
Fishworkers licenses (if applicable)
Personal identification cards or drivers license
Number and type of lifesaving equipment on board
Description of communication and navigational gear on board

A certificate of orderly inspection must be issued and signed by the captain and a crewmember as witness after an inspection regardless of whether there are items seized or violations detected (Figure 13). A carbon copy of the certificate is issued to the boat captain.

If violations are identified, arrest and seizure is made. An arrest is usually made by actual restraint of the person to be arrested, or by his submission to the custody of the person making the arrest. In the case of arrests at sea, the boat captain is instructed to proceed to the nearest port. No unnecessary or unreasonable force should be used in making an arrest, and the person arrested should not be subject to any greater restraint than is necessary for his detention. The enforcement officer prepares an Inspection/Apprehension Report.

_____ (Name of Vessel)	
_____ (Homeport/Flag State)	
	Port of _____
	Date _____
CERTIFICATE OF ORDERLY INSPECTION	
TO WHOM IT MAY CONCERN:	
THIS IS TO CERTIFY that on this date, the team from the _____ (<i>municipal office or PNP, PCG unit, PNP-MG unit</i>) has boarded my vessel at the vicinity of _____ in order to conduct an inspection.	
The team is composed of: _____ _____ _____ _____	
That the inspection was conducted in an orderly manner without the use of force upon our person(s) or property;	
That the inspection was conducted and the inspection team left my boat/vessel without taking any property which is not subject to seizure, neither was there anything taken without proper receipt;	
That this statement was freely and voluntarily made without the use of force or intimidation; and	
That before I signed this statement, the contents hereof, were translated to me and I have understood the same.	
_____ (<i>Print name/Signature of Master Patron</i>)	
_____ (<i>Name of Vessel</i>)	
WITNESS: _____	

Figure 13. Sample certificate of orderly inspection.

Enforcement officers are authorized under the Fisheries Code to have considerable powers. It is important, however, to ensure that these powers are not abused. The provision to search and seize without warrant, for example, is often necessary because of the nature of the activities involved. Fishing vessels at sea must be inspected and action taken when an offense is detected right on the spot. There is no time to seek a warrant; however, it should not be assumed that enforcers can act under all circumstances without a warrant.

Law enforcement officers may conduct a search, seizure of evidence, and arrest without a warrant when they have probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed an offense or crime. Probable cause is meant as such facts or circumstances before an arrest that are sufficient in themselves to induce a cautious man to rely upon them and act accordingly. Personal knowledge of facts or circumstances means actual belief or reasonable grounds for suspicion. Grounds for suspicion are reasonable when, in the absence of actual belief of the arresting officer, suspicion is such that the person to be arrested is probably guilty of committing the offense and supported by circumstances sufficiently strong in themselves to create the probable cause of guilt of the person to be arrested. A reasonable suspicion must be founded on probable cause, coupled with good faith on the part of the arresting officer.

An arrest without a warrant by a law enforcement officer or private person is also lawful when the person to be arrested has committed, is actually committing, or is attempting to commit an offense. Also, an arrest without warrant may occur when the person to be arrested is a prisoner escaped from a penal establishment or has escaped while being transferred from one confinement to another.

Use of force

Coastal law enforcers must abide by a uniform use of force policy and adhere to internationally determined rules of engagement in the performance of their duties. Force should not be used when and where assigned duties can be accomplished without it. A reasonable use of force may, however, be allowed to achieve the desired result with minimum injury to people and property.

The **use of force continuum model** (Figure 14 (United States Coast Guard 2000)) defines different levels of force for a given level of resistance as:

- ♦ Level One. Often the mere presence of an enforcer is enough to achieve the desired goal. Most people tend to calm down and follow directions when faced with an authority figure.
- ♦ Level Two. Verbal commands allow the enforcer to identify him/herself and to order the offender to do something. If the offender does not obey, the enforcer is justified in going to the next level of force.

- ♦ Level Three. Soft, empty hand control is used to restrain a suspect who has ignored a verbal order to do something. In this situation, the amount of physical force is determined by the amount of resistance being encountered.
- ♦ Level Four. Hard, empty hand control is used to counter a physical attack by the suspect. This typically involves the enforcer punching or using restraining holds on the arms or the neck of the suspect.
- ♦ Level Five. Intermediate weapon control may be required to achieve compliance in the case where the suspect is resisting with or without weapons, but with enough force that the enforcer is in danger of being injured. Weapons such as a baton or similar implement that happens to be at hand (an oar) may be used. Weapons such as firearms or bladed weapons should only be used as a last resort.
- ♦ Level Six. Deadly force may only be used in the case where the enforcer or someone else at the scene is in danger of being killed. This situation is not very common in coastal law enforcement.

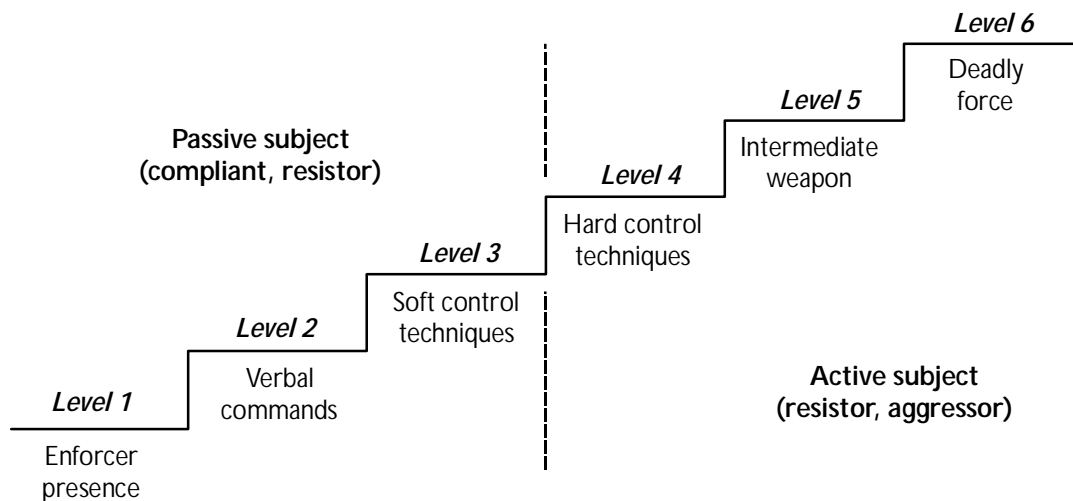


Figure 14. Use of force continuum model.

Subjects are typically divided into two distinct categories: passive and active. Subjects can further be identified as being either compliant, a resistor, or an aggressor. Passive/Compliant subjects follow the enforcer's requests or verbal commands; while the Passive/Resistor subject does not follow the enforcer's requests or verbal commands, but does not physically prevent the enforcer from gaining control. The Active/Resistor does not follow the verbal commands and physically resists the enforcer, but does not attempt to harm the enforcer (i.e., pulling away, pushing, or running away). The Active/Aggressor does not follow verbal commands and attempts to harm the enforcer or others (i.e., punching, biting, kicking) (US Coast Guard 2001).

In making an arrest, no unnecessary or unreasonable use of force should be used. In determining the level of force required in making an arrest, the following guidelines can be used:

- ♦ The arresting officer shall inform the person to be arrested of his authority and the cause of the arrest, unless the latter is either engaged in the commission of an offense, is pursued immediately after its commission, has escaped, or forcibly resists before the officer has opportunity to so inform him or when the giving of such information will imperil the arrest.
- ♦ In case of “civilian arrest”, the private person shall inform the person to be arrested of the intention to arrest him and the cause of the arrest. The giving of such information is likewise excused under the circumstances as cited above.
- ♦ The arresting officer may orally summon as many persons as he deems necessary to assist him in effecting the arrest. Every person so summoned shall assist in effecting the arrest when he can render assistance without detriment to himself.
- ♦ A law enforcement officer, in order to make an arrest either by virtue of a warrant or pursuant to a valid warrantless arrest, may break into any building or enclosure where the person to be arrested is or is reasonably believed to be, if he refused admittance thereto, after announcing his authority and purpose.
- ♦ Whenever a law enforcement officer has entered the building or enclosure, he may break out when necessary to liberate himself.
- ♦ No violence or unnecessary force shall be used in making the arrest and the person to be arrested shall not be subjected to further restraint than is necessary for his detention. If the offender resists, the arresting officer may be required under the circumstances to overcome the resistance.
- ♦ The use of deadly force is considered a last resort for the arresting officer. It only becomes justified when the resistance develops into an unlawful aggression under circumstances leaving the arresting officer with no other choice but to defend his own life. Otherwise, the mere enforcement of fisheries and other CRM-related laws cannot compensate for the loss of life of the person to be arrested.
- ♦ Immediately after the arrest, the person arrested must be brought to the nearest police stations without any undue delay.

Rules of engagement at sea

Rules of engagement applied in maritime law enforcement as defined in international law can either expand or restrict the enforcement officer’s authority. There are five major concepts that must be clearly understood by coastal law enforcement personnel:

1. The right of innocent passage;
2. *Force majeure*;
3. Hot pursuit;
4. Constructive presence/hovering vessel; and
5. The right of visit.

The right of innocent passage is defined under international law as the right of non-interference enjoyed by a foreign vessel while engaged in non-threatening transit inbound, outbound, or through your territorial sea. The passage is innocent as long as it is not prejudicial to the peace, good order, or security of your country. Innocent passage must be along the most direct route from the vessel's point of departure to its destination. A country may temporarily suspend innocent passage through its territorial seas if the suspension is essential to the security of the country. Innocent passage of a foreign vessel is considered void when the vessel:

- ♦ Threatens or uses force against the coastal state;
- ♦ Exercises or practices with weapons;
- ♦ Engages in collecting information about the defense or security of the coastal state;
- ♦ Commits any act of propaganda aimed at affecting the defense or security of the coastal state;
- ♦ Conducts flight operations of any type;
- ♦ Launches, lands, or takes on board any military device;
- ♦ Embarks or disembarks any commodity, currency, or person contrary to the fiscal, immigration, or customs laws of the coastal state;
- ♦ Causes any willful or serious pollution;
- ♦ Conducts any fishing activities;
- ♦ Conducts research or survey activities;
- ♦ Commits any act aimed at interfering with any system of communication or any other facilities or installations of the coastal state; and
- ♦ Conducts any other activity not having a direct bearing on passage.

Force majeure is a claim made under international law. It is defined as an overwhelming and unexpected event subjecting a vessel to loss, or a person overboard that vessel to loss of life, which requires the vessel to make an unscheduled entry into the territorial waters of another country. The vessel in this case is immune from all coastal state enforcement actions. You may board the vessel to confirm the nature of the distress. You may not exercise enforcement actions unless force majeure is waived by the flag state for the vessel or the claim is found to be false.

Hot pursuit is an international doctrine, which exists when a foreign vessel suspected of violating your laws while in your territorial sea is pursued onto the high seas. If the vessel is stopped on the high seas under the doctrine of hot pursuit, you have jurisdiction as if it was still within your territorial seas. The following conditions must exist for you to establish hot pursuit:

1. A foreign vessel is suspected of violating your laws in waters subject to the jurisdiction of your country;
2. The vessel has been visually and/or audibly signaled to stop;
3. The pursuit commences while the foreign vessel is in your territorial waters; and
4. The vessel flees from those waters onto the high seas.

The pursuit must be continuous, either visually or on radar. If pursuit is passed to another law enforcement unit, identification of the vessel must be positive, and the vessel does not enter into another country's territorial waters.

Constructive presence is a doctrine that gives jurisdiction over a vessel outside your territorial seas, if it is operating in tandem with a vessel engaged in illegal activity within your jurisdiction. For example, a hovering vessel, possibly a mother ship, remains outside your territorial waters. Other vessels make contact with it and load contraband (including illegally caught fish or protected species). Under the doctrine of constructive presence, if the contact vessel ferries that contraband between the mother ship and the coast, and the contact vessel is observed transiting between the mother ship and your territorial sea, and the contact vessel is boarded while in your territorial sea, and evidence of contraband is discovered, then the mother ship may be treated as if it was within your territorial sea. Since the doctrine of constructive presence conceptually extends a nation's territorial seas around the hovering vessel, law enforcement vessels may take up hot pursuit if the hovering vessel flees the scene.

The right of visit (sometimes referred to as the right of approach) allows warships close to other vessels (except other warships) on the high seas in order to determine their nationality and identity; and board those vessels suspected of being stateless or engaged in international crimes. International crimes enforceable through the right of visit are piracy, slave trade, and unauthorized broadcasting. The boarding vessel may only investigate those offenses covered under the right of visit. Once the boarding team has completed its investigation, it must either depart the vessel, obtain the master's consent to remain on board, or if criminal activity is discovered in the course of investigation, notify their operations center for guidance.

HANDLING OF EVIDENCE

Evidence collected or seized during the course of an enforcement operation or arrest must be properly documented and handled to preserve its integrity in a court of law. Coastal law enforcers should seize all items that they consider necessary or relevant in proving that an offense has been committed. This may include the vessel, the gear, the fish (or other resources) or any other item associated with the commission of the offense.

The seizing officer is required to give a detailed receipt for the seized items to the owner or lawful occupant of the premises in whose presence the search and seizure were made. In their absence, the search and seizure should be made in the presence of and the receipt issued to at least two witnesses of sufficient age and discretion residing in the same locality. Likewise, a receipt must be left in the place in which the officer found the seized property. In the event that the owner or lawful occupant of the premises refuse to sign in the presence of witness, the seizing officer must note this in the receipt or if the evidence is associated with illegal fishing such as fish catch and fishing boats, the apprehending officer must issue an affidavit stating the refusal

attested by the two witnesses. All items must be marked with the enforcer's name or other identifying mark (badge number, etc.), date, time and place of seizure. A receipt should be provided to the accused for the items seized (Figures 15, 16, and 17) (CRMP 1998). The condition of any equipment should be noted to avoid later being accused of damaging it.

SWORN RECEIPT FOR CONFISCATED FISH			
Place of confiscation: _____ Date of confiscation: _____ <i>(The place must be indicated with specificity: House No. if any, barangay name, city, province, region and country; the date must indicate the day, month, year, and time)</i>			
Received from _____ <i>(owner, operator, master or person-in-charge, vendor or other possessor)</i> for unlawfully caught fish at _____ _____ <i>(fishing vessel and CFBL No., marketplace or other place)</i> on _____ <i>(date)</i> at _____ <i>(city/municipality/barangay)</i> in the possession of the above-named person.			
Vernacular name of fish	Scientific name	Quantity	Value
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Findings (to indicate if caught positive to explosive substances or through other illegal means) _____ _____			
_____ <i>(Fishery Law Enforcement Officer's Name and Signature)</i>			
WITNESSES: 1) _____ 2) _____			
ACKNOWLEDGEMENT _____ <i>(Signature of the Leader of Apprehending Team)</i>			

Figure 15. Sample receipt for confiscated fish.

RECEIPT FOR CONFISCATED ITEMS BELIEVED TO BE EXPLOSIVES, NOXIOUS OR POISONOUS SUBSTANCES	
Place of confiscation: _____	
Date of confiscation: _____	
Received the following items believed to be explosives, noxious or poisonous substances in the possession of _____ (<i>possessor</i>) at _____ (<i>place of confiscation</i>) for confiscation in violation of _____ (<i>law violated: with specific section</i>).	
Quantity	Description
_____	_____
_____	_____
_____ day of _____, 2001 at _____, Philippines.	
_____ (<i>Fishery Law Enforcement Officer's Name and Signature</i>)	
WITNESSES:	
1) _____	
2) _____	
ACKNOWLEDGEMENT	
_____ (<i>Signature of the Leader of Apprehending Team</i>)	

Figure 16. Sample receipt for confiscated items believed to be explosives, noxious or poisonous substances.

RECEIPT FOR IMPOUNDED BOAT		
Place of issuance: _____		
Date of issuance: _____		
Received from _____ (possessor) for impounding, for the reasons stated below the fishing vessel herein described:		
_____ (Owner/Operator)	_____ (CFBL No.)	_____ (Name of Boat)
Reasons for impounding:		
<ul style="list-style-type: none"> - possession of fish believed to be caught using explosives - using vessel for blast fishing - possession of dynamite and other explosives - others 		
_____ (Fishery Law Enforcement Officer's Name and Signature)		
WITNESSES:		
1) _____		
2) _____		
ACKNOWLEDGEMENT		
_____ (Signature of the Leader of Apprehending Team)		
<div style="border: 1px dashed black; padding: 10px; margin-top: 20px;"> <p style="text-align: center;">Note: If custodial safekeeping is under different agency:</p> <p style="text-align: center;">TURNOVER ACKNOWLEDGEMENT RECEIPT (for custodial safekeeping)</p> <p style="text-align: center;">_____ (Signature of Custodian)</p> <p style="text-align: center;">_____ (Office/Agency)</p> </div>		

Figure 17. Sample receipt for impounded boat.

All seized items should be kept in the enforcer's personal custody and immediately turned over to the court for safekeeping. Under FAO 206, seized fishing vessels are turned over to PNP-MG for safekeeping during the course of the trial provided that a copy of the registration papers and pertinent vessel licenses specifying its make and description and all other relevant information regarding the vessel including photographs be taken first. If the seizure was made through a search warrant, the seizing officer must effect an actual seizure of the personal properties particularly described in the search warrant and deliver the property seized to the judge who issued the warrant, together with a true inventory verified under oath. If the court cannot provide the necessary facilities for the storage and safekeeping of the seized items, custody may be turned over to the appropriate entity placing utmost consideration to the preservation of the integrity of the evidence. The court should provide a written instruction to that effect. The Secretary of the Department of Agriculture, or his duly authorized representative and law enforcement officers with assistance from the PCG and PNP are empowered to impound the proceeds, tools, equipment, and conveyances used in violation of provisions of the Fisheries Code. In no circumstances should the evidence be placed in the custody of the owner or accused.

During prosecution, the appropriate entity given custody of the evidence should be prepared to be called upon to testify that the items were in their control at all times and that no person had the opportunity to alter or otherwise affect their condition. Other parties such as those officers who seized the items or would have knowledge on the condition during the time when the service was made or the condition of the item before it is presented may also be called to testify. Upon conclusion of the case, the items should be disposed of as directed by the court, or the departmental policy on forfeited items. The nature of disposal should be recorded, and a receipt obtained if the items are returned to the accused. Where personal property has been seized under a search warrant and it appears reasonably definite that the seizures will not be followed by the filing of any criminal action for the prosecution of the offense in which the warrant was issued, the owner of the property may request, through a proper motion, that the court immediately release the items.

Statements of witnesses and the suspects may be admissible as evidence under certain circumstances covered under existing rules on custodial investigation. Custodial investigation is the questioning initiated by law enforcement officers after a person has been taken custody or otherwise deprived of his freedom of action in any significant way. Statements taken from custodial investigation must be given voluntarily without any threat or intimidation from the law enforcer. The enforcer must also be able to convince the court that no coercion of any sort was used to produce the statement. Table 21 is a checklist of some of the rules to be followed when taking statements.

While statements may or may not be allowed as evidence in a court of law, they can be used as part of the investigation, on cross-examination or in the introduction of other hard evidence.

Table 21. Rules to be followed when taking statements.**During the interview/custodial investigation:**

- ♦ *Was the suspect informed of any other matters which are required to be told by law (e.g., constitutional rights, if charged or not)?*
- ♦ *Was the suspect offered an interpreter?*
- ♦ *Did the suspect understand what was being said?*
- ♦ *Was the interpreter competent and independent?*
- ♦ *Was the suspect asked if he/she wanted a lawyer present?*
- ♦ *If the suspect is a foreigner, was he/she asked if he/she wanted a diplomatic representative present?*
- ♦ *Did the investigator identify himself/herself properly?*
- ♦ *Was the suspect informed as to the reasons for the arrest/detention?*
- ♦ *Was the suspect permitted to have another crew member (or group member) present? This is not required by law, but prevents the defendant from later saying that he/she was coerced in any way.*
- ♦ *If there are questions the suspect is obliged by law to answer, was he/she informed of this obligation?*
- ♦ *Were breaks for rest/refreshment/toilet visit given at reasonable intervals? Were such breaks recorded?*

After the interview/custodial investigation:

- ♦ *Was the investigation read back to the defendant?*
- ♦ *Was he/she asked if it was true, and told to correct/alter/add anything if he/she so wished?*
- ♦ *Were all corrections/alterations/additions initialed?*
- ♦ *Was the investigation dated and timed at the beginning and at the end?*
- ♦ *Was any formal declaration required by law at the beginning or end written down and signed by the suspect?*
- ♦ *Did the suspect sign at the foot of each page and at the end of the investigation?*
- ♦ *Did the investigating officer and other officials such as the counsel present sign?*

Some evidence may need to be collected using field or laboratory instruments or equipment. The coastal law enforcer should note if evidence contained in a witness's statement relies upon scientific instruments (e.g., readings of a GPS, radar, or field laboratory equipment). There is a common law presumption that the readings of certain scientific instruments are accurate. An instrument will fall into this class if general experience shows it to be trustworthy (i.e., a notorious instrument). If the instrument is "notoriously reliable," then readings from it can be given in evidence once it has been established that it was operating properly and the witness was a competent operator. Even a non-notorious instrument can be accepted by the court if the whole system is proved by expert witnesses or if the instrument was cross-checked against accepted instruments and found to be working properly and accurately. In addition, the reading from an instrument should be recorded and verified by two persons.

On-scene enforcers investigating an offense should take written notes while on the scene. These notes should include diagrams of the layout and relative position of any equipment, and vessels that are relevant to the offense. All details of the scene should be recorded, including a description of the accused and witnesses. If it is not possible to take notes on the scene, they should be written out as soon as possible. Photographs may also be taken at the scene. These are helpful in showing the relative position or size of objects, the condition of equipment, or even the presence or absence of things relevant to the charge. Like any other evidence, photos must be kept under the care and control of the authorized enforcer.

Charges against persons for damage to the environment are often complicated to prove. There are many chemical products on the market that can harm fish and other coastal resources. These range from common substances like gasoline and diesel fuel to complicated chemicals such as insecticides and industrial wastes. The damage is not always immediately obvious. Enforcers investigating such offenses should seek technical assistance from certified or accredited laboratories and examiners. The handling of the samples will depend on the nature of the suspected substance. Notes, diagrams, and photographs may be used to document the sampling process. It is important to ensure that the containers used for the sampling do not themselves contaminate the samples. The container and the cover should be sterile and tight-fitting. Handling and preservation procedures for commonly required laboratory analysis of seawater and fish samples are summarized in Table 22.

Table 22. Handling and preservation procedures for fish and water samples.

Fish suspected or believed to be caught using explosives

Sampling required: collection of fish for laboratory dissection and observation by licensed fish inspector

Sample size: at least 100 g in weight; 3-5 pieces for big fish or 10-20 pieces for small fish or fingerlings

Sample preservation for testing: fish should be frozen or packed in ice submitted to the nearest fish examiner

Sample preservation for evidence: formalin solution using 37 percent concentration of commercial formalin; labeled with scientific, English, and local names, whenever and whichever applicable

Holding time: as soon as possible

Laboratory analysis: inspection of fish sample by licensed fish inspector

Fish suspected to be caught using noxious or poisonous substances

Sampling required: collection of fish for laboratory analysis by Cyanide Detection Laboratory or other authorized laboratory

Sample size: at least 100 g in weight; 3-5 pieces for big fish or 10-20 pieces for small fish or fingerlings; one liter of water from the scene of the offense

Sample preservation for testing: fish sample packed in polyethylene plastic, either frozen or placed in a closed container or bottle with a proportioned ratio of ice or in the absence of ice, ethyl alcohol or absolute alcohol may be used. For water sample, any container as long as the sample should reach the laboratory in 4 hours. Caution: never use formalin and fish must remain in the state in which it was confiscated.

Holding time: as soon as possible

Laboratory analysis: BFAR laboratory or government crime/hospital laboratory

Notes on disposing confiscated fish: Confiscated fish from blast fishing deemed fit for human consumption may be donated to charitable institutions provided such institutions execute a promissory note of their willingness to return the value of the catch upon acquittal of the accused. The same may be donated to penal institutions with the same condition of issuing promissory note should charitable institutions demur. Fish not deemed for human consumption such as those caught by cyanide and noxious substances may not be donated and should be disposed of by the apprehending officer in the presence of a 3rd ranking BFAR official, representative of the Office of the Prosecutor (DOJ) of the PNP and shall be documented properly

Fish kills due to environmental pollution

Sampling required: conduct of on-site water analysis for dissolved oxygen, salinity, and temperature; collect water, fish, and shellfish samples for laboratory analysis

Sample size: half liter of water or any liquid sample from various sampling sites collected; fish and shellfish sample size as for noxious or poisonous substances

Sample preservation: store all samples on ice; however, do not freeze liquid samples as they may have adverse chemical reaction

(continued)

Table 22. (continued)

Holding time: as soon as possible

Laboratory analysis: laboratory analysis of water for BOD, dissolved oxygen, pH, salinity, heavy metals, or pesticides depending on possible sources of contamination

CASE PREPARATION

For a coastal law enforcer, presenting a case in court may also involve actually testifying. The most important thing for an enforcer to remember when appearing in court is to stay calm. Ensuring that the enforcer arrives at the specified time, dressed appropriately, and seeing the prosecuting officer before the proceedings begin can lessen the stress of appearing and testifying. All the exhibits that are to be used should be present and accounted for.

When testifying, the enforcer should face the judge and speak clearly and not too fast. In the witness box, the enforcer should sit or stand with an erect posture, which will help in portraying an aura of calm professionalism when testifying. If the question is unclear to the testifying enforcer, he/she should ask for the question to be repeated or clarified. It is important to only answer the questions that are asked. Information volunteered should always be relevant to the case.

The testifying enforcer should be prepared to give testimony as to the various exhibits presented in court and to the identity of the accused. He/she should also be able to confirm statements made by other witnesses, and to reply to any other questions asked by the judge, the defense council, or the prosecuting officer. Upon completing the testimony, the enforcer should wait for the judge's permission before stepping down from the witness box.

During the time of case preparation and presentation at court, the field enforcer will no longer play a major role in the litigation of the coastal violation. Instead, the lawyers, paralegals, and the court system will take on the lead roles of remedying and seeking punishment of violators. Table 23 presents a list of tips to help in preparing for a legal case.

Table 23. Case preparation tips.

1. Preparedness is half the battle;
2. Study the facts;
3. Interview the witnesses;
4. Examine the available evidence and documents – match the evidence with the facts;
5. Investigate independently;
6. Put the facts together to form a whole picture of the case – chronological order;
7. Pinpoint the legal issues involved:
 - constitutional provisions
 - statutory provisions
 - judicial decisions
 - commentaries
 - analysis of authorities

(continued)

Table 23. (continued)

-
8. Form the hypothesis – match the evidence with the hypothesis;
 9. Modes of discovery:
 - deposition-taking
 - written interrogatories
 - admission by adverse party
 - production or inspection of documents or things
 - physical and mental examination of persons
 10. Anticipate the opponent's case;
 11. Determine the cause of action;
 12. Choose legal remedies;
 13. Prepare the appropriate pleadings, motions, affidavits, and evidence;
 14. File the appropriate case.
-

CRIMINAL PROCEDURE

The process of criminal procedure has at least 11 distinct steps (Figure 18), leading from the actual crime through the trial, and ultimately ending with a judgment and possible appeal.

The law is violated when a person commits a crime or offense. Any witness can report the violation to the proper authorities. The witness can be an ordinary person, police officer, or foreigner. The term “proper authorities” includes policemen, PCG, BFAR and all elected or appointed public officials. A sworn letter-complaint is then filed with the fiscal (if the crime was committed in the city) or the provincial prosecutor (if the crime was committed in the municipality). The sworn complaint (Figure 19) can be filed by the witness or by the proper authority. If the complaint is filed by the proper authority, the witness may testify for the government.

Depending on the seriousness of the crime committed, a complaint can be filed in either the Regional Trial Court (RTC) or the Metropolitan Trial Court (MeTC), Municipal Trial Court (MTC), Municipal Circuit Trial Court (MCTC), or Municipal Trial Court in Cities (MTCC).

The RTC has the original and exclusive jurisdiction of the following criminal cases:

- ♦ Cases where the penalty provided by law exceeds six years' imprisonment irrespective of the fine, if any; and
- ♦ Cases where the only penalty provided by law is a fine, if the amount of the fine exceeds PhP 4,000.

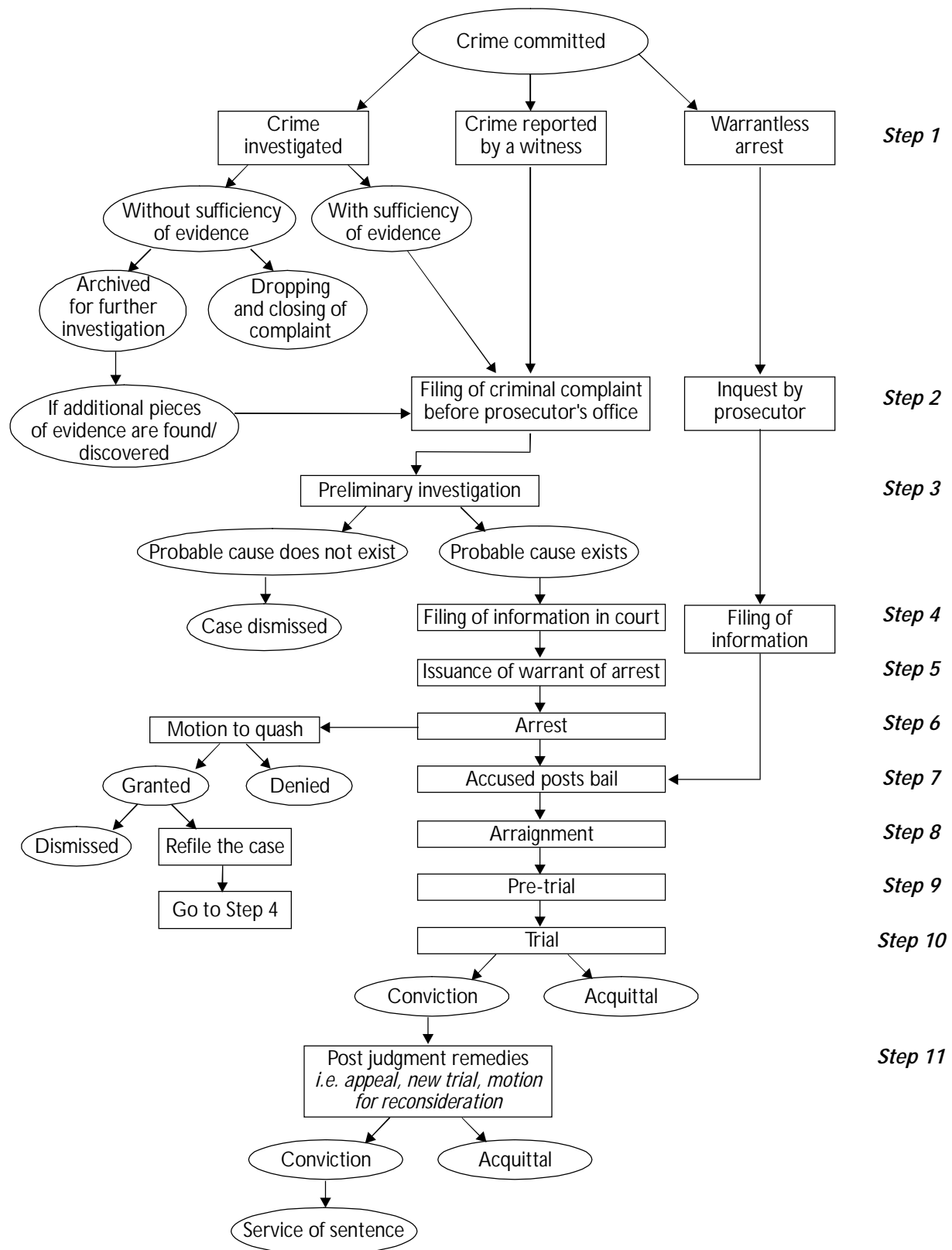


Figure 18. Criminal procedure flowchart.

THE APPREHENDING OFFICER
CITY OF _____

(Date of issuance)

City Prosecutor

Sir:

Good day! I am hereby filing a criminal complaint against Mr./Ms. _____, of legal age, single, a resident of _____ for violation of _____ (Republic Act No. 8550), known as fishing through explosives, noxious or poisonous substances, and/or electricity, committed as follows:

That on or about _____ hours of the _____ day of _____, 2001 in the municipal waters of _____, the said accused with deliberate intent, did then and there have in his/their possession cyanide, a poisonous substance which he/they intend to use in catching fish. The following documents/evidences support this, viz.:

- 1) Affidavit of arresting persons/officers;
- 2) _____ (plastic bottles of liquefied cyanide samples);
- 3) _____ kilos of assorted fish identified as _____;
- 4) _____ unit(s) paddle boat;
- 5) _____ pieces of fine-mesh nets at _____ (cm) length each;
- 6) Laboratory examination reports of BFAR.

The attendant circumstances of the incident are narrated in the affidavit attached herein, which is made an integral part of the complaint.

CONTRARY TO LAW:

_____, _____ 2001

COMPLAINANT/APPREHENDING OFFICER
OR HEAD OF APPREHENDING UNIT
(Name and signature of the complainant: this is necessary to confirm the allegations in the letter-complaint)

Figure 19. Sample transmittal letter of apprehending unit to the prosecutor.

The MeTC, MTC, MCTC, and MTCC have the original and exclusive jurisdiction of the following criminal cases:

- ♦ All violations of city or municipal ordinances committed within their respective territorial jurisdiction;
- ♦ All offenses punishable with 6 years' imprisonment and below, irrespective of the fine, if any, and regardless of other imposable accessory or other penalties and the civil liability arising therefrom;
- ♦ Offenses involving damage to property through criminal negligence; and
- ♦ Cases where the only penalty provided by law is a fine, if the amount of the fine is PhP 4,000 and below.

There are other factors to consider in determining the appropriate jurisdiction of a court. If the offense is punished by the alternative penalties of imprisonment or fine, or by the conjunctive penalties of imprisonment and fine, the amount of the fine is disregarded. Where the penalty imposed by law is only a fine, the amount determines the jurisdiction of the court. In case the penalty provided by law is a range (i.e. 5 to 7 years imprisonment, or PhP 3,000 to 5,000 fine) the higher or highest penalty determines the jurisdiction of the court.

The fiscal or the MTC judge conducts a preliminary investigation (PI) on the sworn complaint filed. A PI is the means used by the fiscal or MTC judge in determining, by questions and answers, whether there is enough evidence or basis to file a criminal complaint in court against the violator. If the crime is triable in the RTC, the fiscal or the prosecutor conducts the PI. If the crime is triable in the MTC, the MTC judge conducts the PI. If after conducting the PI and the fiscal or judge does not find enough evidence to support the sworn letter-complaint, the fiscal or judge dismisses the sworn complaint. No case for the violation of the law is tried. However, if the fiscal or judge finds sufficient basis or evidence that the violator committed the crime charged, a criminal complaint or information is filed in court. A criminal case for violation is tried. A resolution of the investigating prosecutor or judge, either dismissing the case or finding probable cause is still subject to review by the provincial or city prosecutor or the Ombudsman or his deputy in cases of offenses cognizable by the *Sandiganbayan* in the exercise of its original jurisdiction. The resolution of the investigating officer is merely recommendatory. The reviewing authority has the final say whether or not the corresponding complaint or information will be filed in court.

A PI is only required to be conducted before the filing of a complaint or information for an offense where the penalty prescribed by law is at least four years, two months and one day imprisonment without regard to the fine. The only exception to this is when the accused was lawfully arrested without a warrant, in which case the complaint or information may be filed by a prosecutor without need for such investigation provided an inquest has been conducted. Also, either the judge or the prosecutor may conduct a PI of cases falling under the original jurisdiction of the MTC, MTCC, MeTC, and MCTC. No prohibition exists on the part of inferior court judges from conducting preliminary investigations of cases falling under the original jurisdiction of the RTC. Judges of MeTC in the National Capital Judicial Region and MTC in chartered cities are not allowed to conduct PIs.

When a criminal case is filed in the proper court (RTC or MTC), only the judge can order the arrest of the fishery law violator. In exceptional cases, however, the President of the Philippines can order the arrest of any illegal or undesirable foreigner, but only after a final order of deportation is issued. After a warrant of arrest is issued by the trial judge, the warrant can be enforced or executed by the deputized agents of the court. The deputized agents can be policemen (PNP), NBI agents, a sheriff or his deputy, probation officers, bondsmen, or LTO commissioners.

The arrest of the violator of the fishery law is made by actually restraining the person, or through the submission of the violator to the custody of the arresting officers. In the event that the violator cannot be located and arrested, the criminal case against the violator is suspended until he or she is put in the custody of the trial court.

After the arrest, the violator or accused, as a matter of right, can apply in court for bail for temporary freedom from imprisonment and detention. However, if the crime is punishable by death or *reclusion perpetua*, and the evidence of guilt is strong, then the violator's bail application shall be refused. With or without bail, the violator will be brought to court for arraignment. During this stage, the court will read to the violator the charge or criminal complaint against him/her. After which he/she will either admit or deny the accusation. If the violator refuses to make any plea, the court will consider his/her silence as a plea of "not guilty."

Not all bail applications are to be granted by the court as a matter of right. Only in the following instances shall a person be admitted to bail as a matter of right:

- ♦ Before or after conviction by the inferior court, and there is a pending appeal; and
- ♦ Before conviction by the RTC of an offense not punishable by death, *reclusion perpetua*, or life imprisonment.

The grant of application for bail in other cases is only a matter of discretion on the part of the court.

Before arraignment, the violator/accused can ask that the complaint be dismissed. This is done by filing a motion to quash based on one or more of the following grounds:

- ♦ No factual basis;
- ♦ The court has no jurisdiction over the accused;
- ♦ Officer filing the criminal case had no authority to file it;
- ♦ Defect in the form of the complaint;
- ♦ The complaint covers more than one offense;
- ♦ The act complained of has been extinguished already;
- ♦ The complaint actually contains allegations that would acquit the accused;
- ♦ The complaint would put the accused in double jeopardy.

A pre-trial conference in court is conducted after arraignment. During the pre-trial conference, the violator or accused and his lawyer may bargain for a lesser charge; or agree with the prosecution as to certain facts. A pre-trial is mandatory in both civil and criminal cases for the consideration of the following:

- ♦ Plea bargaining;
- ♦ Stipulation of facts;
- ♦ Marking for the identification of evidence of parties;
- ♦ Waiver of objections to the admissibility of evidence; and
- ♦ Other such matters as will promote a fair and expeditious trial.

During the trial the prosecuting fiscal presents his/her evidence first. An examination by the fiscal and the accused is made of the evidence. When the fiscal is finished presenting his/her evidence, the accused then presents his/her proof. This time, the proof is examined by the accused as well as the fiscal or prosecutor. If the accused pleads guilty during the arraignment, the trial is reversed. He/she will present his/her evidence first, to be followed by the fiscal. When both the prosecution and the violator have finished and rested their respective cases, the trial ends. After this, the trial judge submits the case for decision. The trial judge renders judgment of acquittal or conviction based on admitted evidence, law, and jurisprudence. Ordinarily, the decision-making process takes 30 days from the day the case was submitted for decision.

After judgment is rendered, the prosecution or the violator may ask the court to try the case again, or move for a reconsideration of the judgment on certain valid grounds. However, such course of action must be made before the judgment becomes final, which is 15 days after receipt of the judgment. In no case is a new trial or reconsideration allowed where the judgment is one of acquittal. By necessity, it has to be one of conviction.

If no Motion for Reconsideration or Motion for New Trial is filed, the parties may ask for an appeal. Once the judgment is appealed, and the higher or appellate court renders its decision on the appeal, the appellate court may either:

- ♦ Affirm the decision;
- ♦ Reverse the decision; or
- ♦ Remand (refer) the case back to the trial court where it all started.

In some instances, a criminal case may be filed in court without first arresting the accused. Filing a criminal complaint without arrest is sanctioned under the Revised Rules on Criminal Procedure (01 December 2000) under Rule 112. When a warrant of arrest falls under the jurisdiction of the RTC, the judge must personally review the complaint or information within 10 days of filing and evaluate the resolution of the prosecutor and its supporting evidence. The judge may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If the judge finds probable cause, he/she issues a warrant of arrest, or a commitment order

if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to Section 7 of this rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within 5 days from notice and the issue must be resolved by the court within 30 days from the filing of the complaint or information.

When the warrant of arrest falls under the jurisdiction of the MTC, MeTC, MTCC, or MCTC, either the prosecutor or the judge may conduct the preliminary investigation. When conducted by the prosecutor, the procedures for issuance of a warrant of arrest by the judge follow that of the RTC. When the judge conducts the investigation, his/her recommendations must be affirmed by the provincial or city prosecutor, or by the Ombudsman or his/her deputy and the corresponding information is filed. The judge issues a warrant of arrest. However, without waiting for the conclusion of the investigation, the judge may issue a warrant of arrest if he/she finds after an examination in writing and under oath of the complainant and his/her witnesses in the form of searching questions and answers, that a probable cause exists and that there is a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice. In both instances, the accused has not yet been arrested when the complaint or information was filed. A warrant of arrest shall not be issued for an offense penalized by fine only.

ADMINISTRATIVE PROCEDURE

Administrative processes in coastal law enforcement may not be as “hands-on” as the criminal procedure, but it still punishes environmental violators (Figure 20). The violation is reported to government authorities or their agents (i.e., police, mayor, BFAR, Barangay Captain). The administrative officer (i.e., BFAR, Secretary of Agriculture) prepares the proper complaint against the violator. The administrative officer in the case should also obtain the following:

1. Affidavits of witnesses (Figure 21);
2. Receipt of seized or recovered objects used in the commission of the violation or of objects or fruits of the violation;
3. Photographs, if possible, of the violator, his/her equipment, or the fruits of the violation or offense.

The administrative complaint or report is filed before the relevant national government agency (i.e., DENR or DA-BFAR). The Department Secretary or an authorized representative shall send written notice to the violator. The notice will be about the complaint filed against said violator. The notice also asks the violator to answer the complaint or comment about the report. The administrative body or officer calls for a hearing with the violator. During the hearing, proof is presented by both parties to prove the guilt or innocence of the violator.

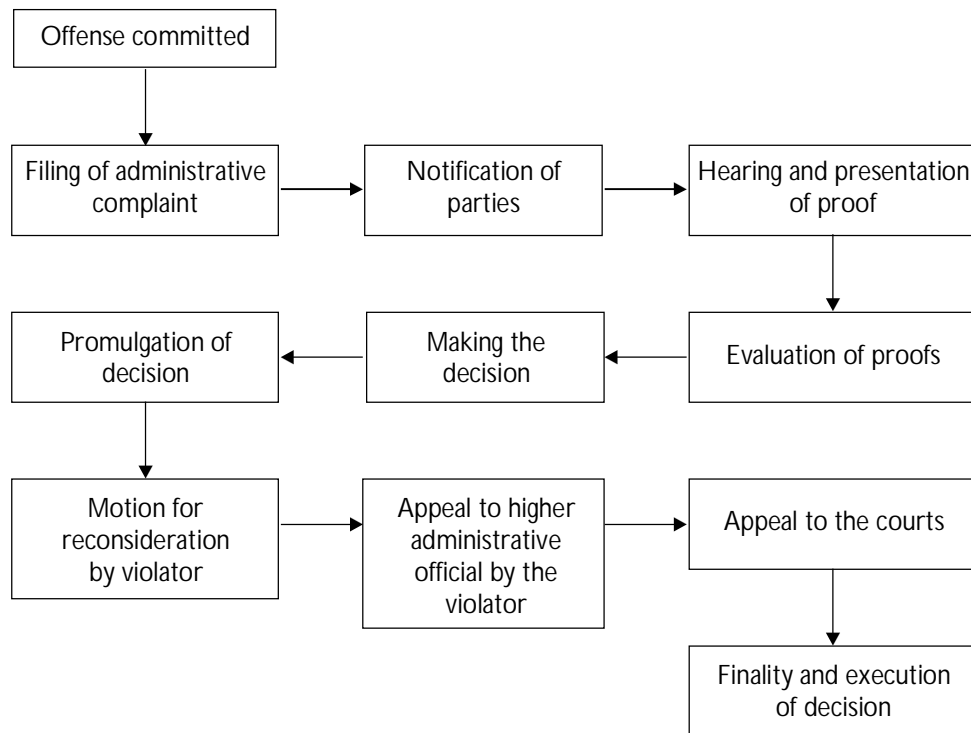


Figure 20. Administrative procedure process.

After due hearing, the administrative officer appreciates and examines the proofs of the parties. Only substantial evidence is needed to rule in favor or against the violator. Substantial evidence is meant that rule of evidence that signifies more than a mere minor piece of evidence that a reasonable mind might accept as sufficient to support a conclusion, even if other reasonable minds think otherwise. When all needed evidence or proofs are submitted, the administrative officer now makes a valid decision. The decision has to be personally made by the administrative officer. He cannot delegate the duty to his subordinates. A valid decision is made in writing, and is based on facts and proofs presented during the hearing, as well as being based on law (i.e., Fisheries Code of 1998).

A valid administrative decision is then handed down or promulgated (announced) to the parties involved. Copies of said decision are given to the violator. The administrative decision can be any or all of the following:

- ♦ Administrative fine;
- ♦ Confiscation of equipment, devices, or properties used in the commission of the offense or violation of law;
- ♦ Confiscation of the fruits of the offense;
- ♦ Impoundment of the vehicles or properties used or obtained by reason of the offense;
- ♦ Forfeiture of the property, catch, or other items used in the offense or violation of law;
- ♦ Cancellation of any license, permit, or lease granted to the violator prior to the violation or offense; or
- ♦ Dismissal of the complaint for lack of factual or legal basis.

REPUBLIC OF THE PHILIPPINES PROVINCE OF _____
CITY OF _____

AFFIDAVIT

I, _____, of legal age, single, a Filipino citizen and resident of _____ after having been sworn in accordance with law, hereby depose and state:

1. That I am a fisherman/*Bantay Dagat* member in the *Barangay* of _____, municipality of _____;
2. That as such, I am tasked, among others, to guard and keep watch over the fishery and aquatic resources within the area of _____, as well as to apprehend violators of the pertinent provisions of fishery laws and administrative orders;
3. That on or about _____ hours more or less on the _____ day of _____, 2001, while I was in the vicinity of the seawater of _____, I saw _____ fishermen who had in their possession and control, cyanide, a poisonous substance, which they used or intended to use for catching fish;
4. That, after asking somebody to report the incident to the *barangay* captain and other authorities, I immediately rushed towards the perpetrator's *banca* and effected arrest on the perpetrator;
5. That I recovered and seized from the fishermen the following articles which they used or intended to use in illegal fishing, viz.:
 - a) _____
 - b) _____
6. That I execute this affidavit in order to support the complaint against the above-named persons for violation of Section 88 of RA 8550. IN WITNESS WHEREOF, I hereby affix my signature this _____ day of _____, 2001 at _____.

AFFIANT (*signature*)

JURAT

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2001 at _____, Philippines.

NOTARY PUBLIC

Figure 21. Sample affidavit.

After the decision is made, the violator may ask for a reconsideration of the decision. This allows the administrative officer to correct any serious mistakes in making the decision. If the administrative officer grants the motion, the decision is changed. Otherwise, it will stay as it is. Usually, the violator can appeal the adverse decision to any higher authority, like the Department Secretary or even the Philippine President. Should there be no appeal made, the decision of the administrative officer becomes final.

In case the violator loses an appeal, he or she can question the administrative decision before the Court of Appeals only, and not the Supreme Court. The appeal to the Court of Appeals is done within 60 days from date of notice of the decision. The Court of Appeals may, after weighing the facts and issues involved, do any of the following:

- ♦ Affirm the decision;
- ♦ Reverse the decision.
- ♦ Modify the decision;
- ♦ Remand or return the questioned decision back to the administrative agency or official; and
- ♦ Grant other just and fair remedies.

The decision from an executory from the Court of Appeals (in case of appeal), becomes final and executory after 15 days from receipt of sound decision.



ROSARIO FARRARONS

Maintaining the integrity of evidence is very important in the success of prosecution. Evidence presented in court must be properly preserved and labeled.



COAST GUARD CEBU

Marked patrol boats are few in the Philippines and are not enough to cover the vast 18,000 km of shoreline. Nonetheless, ordinary motorized bancas or other light craft boats may be used especially in conducting surveillance and covert operations.



ELPIDIO DELA VICTORIA

Blast fishing has existed for half a century in the Philippines and will continue to proliferate unless the supply for blasting caps is suppressed and the regulation on the sale of nitrate-based fertilizers is strictly observed. Picture shows blast fishers arrested by police.



MARLITO GUIDOTE

Local police must also be trained in coastal law enforcement because the majority of Philippine towns and cities are coastal. Picture shows local police investigators in Cebu province discussing operations plan with their PNP Maritime and coast guard counterparts.



MARLITO GUIDOTE

Unmarked seaborne assets are as important as marked vessels. The former are used in covert operations where the objective is to apprehend violators while the latter are used in deterrence patrolling. Picture shows police on board unmarked vessel on routine inspection of commercial fishing operation.



MARLITO GUIDOTE

Minimum use of force must be observed in vessel inspections. Respect for human rights and properties is essential in sea-based searches. The safety of the boarding team is paramount.

chapter 6

Strategies to address common violations of coastal laws

STRATEGIES TO ADDRESS COMMON VIOLATIONS OF COASTAL LAWS

The existing national legal and policy framework provides for adequate protection and management of coastal resources in the Philippines. Legal provisions and penalties prohibit or regulate a wide range of fisheries-related, protected aquatic species-related, coastal habitat-related, foreshore and shoreline development-related and coastal and marine pollution-related activities (see Annexes 1A to 1F). Violations of these laws, however, are commonplace resulting in the nationwide degradation of fisheries, coastal habitats, and other coastal resource uses.

Violations of coastal laws take their root cause in the Philippines' long history of allowing open access regimes to prevail. An open access regime means that fisheries and other coastal resources are exploited by anyone, anytime, and anywhere. Coastal management provides a fair and equitable system to restrict access and to sustain benefits derived from coastal resources thereby encouraging voluntary compliance with the national and local laws. Coastal law enforcement, as a component of an overall CRM program, prevents and deters violators whose motives are primarily profit and greed. A combination of soft and hard approaches must be used to improve implementation of national and local laws in order to rehabilitate coastal resources to achieve sustained economic benefits and food security. Key strategies to address common violations of coastal laws include:

- ♦ Social marketing to increase awareness and encourage reporting of violations of CRM-related national and local laws occurring in municipal waters and the coastal zone;
- ♦ Social mobilization to increase participation of coastal communities in coastal resource assessment, planning, and monitoring and evaluation;
- ♦ Delivery of CRM as a basic service of local government to establish consistent and transparent implementation of CRM plans and programs;
- ♦ Local legislation and regulation to establish necessary management and regulatory measures specific to the LGU or not covered under national laws and policies;
- ♦ Monitoring and evaluation to determine effectiveness of CRM plans and programs and impacts on the condition of coastal resources and coastal communities;
- ♦ Seaborne operations in municipal waters to establish coastal law enforcement presence, to conduct inspections, and to identify and apprehend violators in municipal waters; and
- ♦ Land-based operations in fishing villages, fish landings, ports and harbors, fish markets, and other places in municipalities and cities to establish coastal law enforcement presence, and to identify and apprehend violators of coastal and other related laws.

This chapter provides a coastal law enforcement toolbox of strategies to address common violations of coastal laws. Annexes 1A to aF provide summaries of legal provisions and penalties for common violations of coastal laws.

STRATEGIES TO ADDRESS FISHERIES-RELATED VIOLATIONS

Unregulated fishing effort and the use of destructive fishing methods such as dynamite fishing, cyanide poisoning, and fine-mesh nets by municipal fishers have resulted in the degradation of coastal habitats and overexploitation of fish stocks. Commercial fishing intrusion within municipal waters further depletes the resource base upon which municipal fishers depend. Coastal law enforcement efforts focused on eliminating these and other fisheries-related violations in municipal waters will substantially improve the productivity of and benefits derived from coastal resources.

Strategies to address common municipal fishing violations

The enforcement elements of municipal fishing violations may be land-based or sea-based and cover **persons, properties or resources**, and **acts of persons towards the properties or resources** (Figure 22). **Persons** may refer to municipal fishers, fish vendors, or other individuals involved in the manufacture or supply of explosives or noxious substances. **Properties or resources** may refer to fishing boats, gear, or banned or regulated substances. **Acts of persons toward the properties or resources** may refer to the fishing without registration or licenses, use or possession of banned or regulated substances to catch fish or the sale or export of illegally caught fish or species protected by law. Legal provisions and penalties for common fisheries-related violations are provided in Annex 1A.

Soft and hard coastal law enforcement approaches must be employed to address municipal fishing violations (Table 24). Soft coastal law enforcement approaches involve local CRM planning through active coastal stakeholder to establish an equitable and transparent system for allocating coastal resource use to promote voluntary compliance. Hard coastal law approaches, involving patrolling, apprehensions, and convictions, are required to achieve and maintain general deterrence.

Blast fishing. The use or mere possession of explosives to catch fish is illegal. Explosives are made from ammonium nitrate and other substances commonly used for fertilizer. Explosives are used above or below the water, in reef areas and open water. Blast fishing is not only destructive to coral reefs and other habitats, but results in indiscriminate exploitation of fish stocks taking juvenile as well as adult breeding fish. Furthermore, risk to human life and limb is high, with many examples of amputated appendages and deaths of those who use explosives to kill fish.

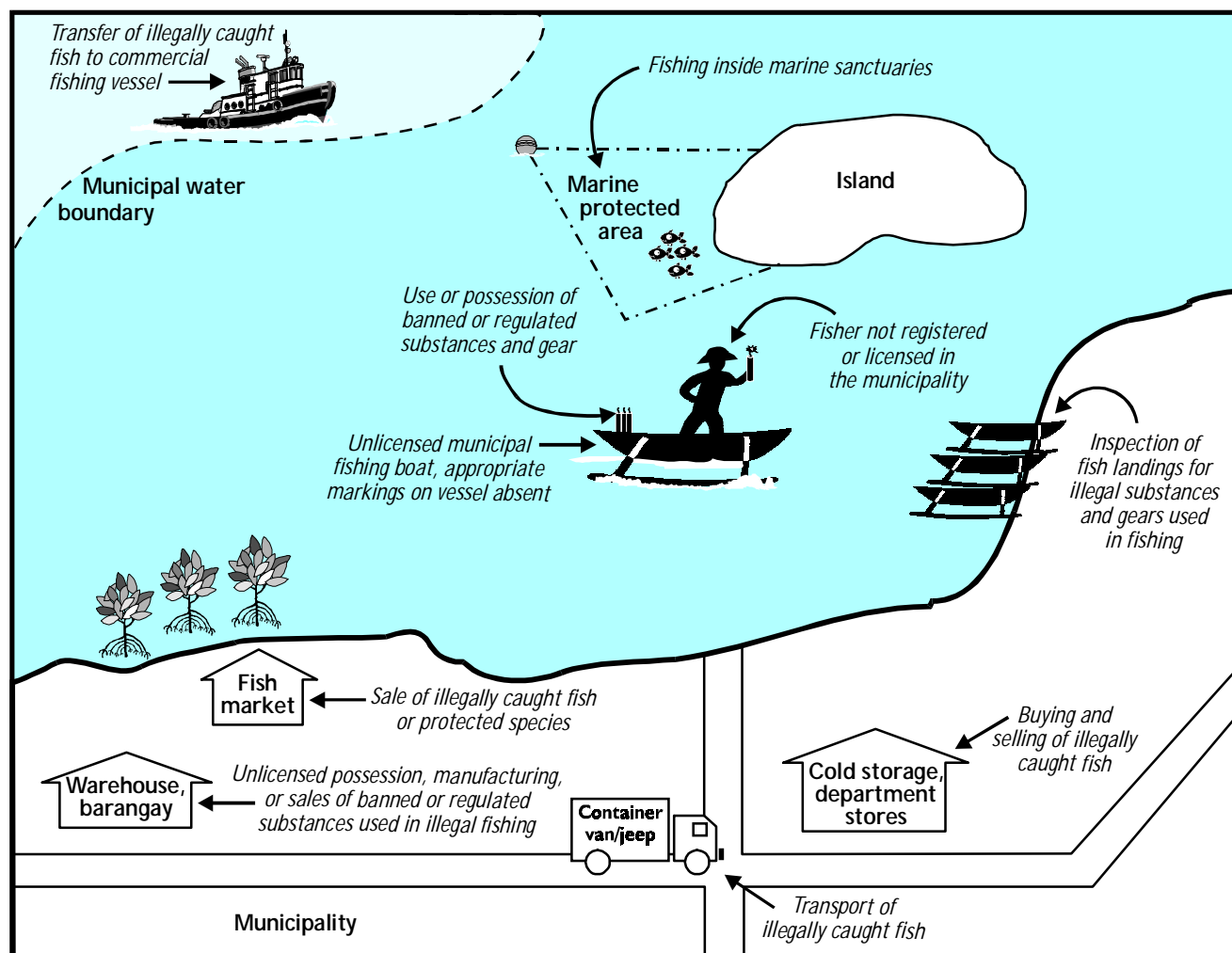


Figure 22. Enforcement elements of common municipal fishing violations.

The use of seaborne patrols to apprehend blast fishers is difficult as fishers are able to dispose of the evidence at sea. Market denial is one of the most efficient strategies to deny benefits derived from the use of explosives in fishing. Fish caught illegally using explosives may be indicated by external manifestations but only a licensed fish examiner can ascertain such suspicion is correct by visual examination (Figure 23). External and internal manifestations of dynamited fish should be part of a coastal law enforcement team involved in conducting a market denial operations. Commercial fishing operators are also known to employ small-scale blast fishers in exploiting municipal fisheries. Routine inspection of the fish catch by a licensed fish examiner can be employed at fish landings and markets.

EXTERNAL MANIFESTATIONS

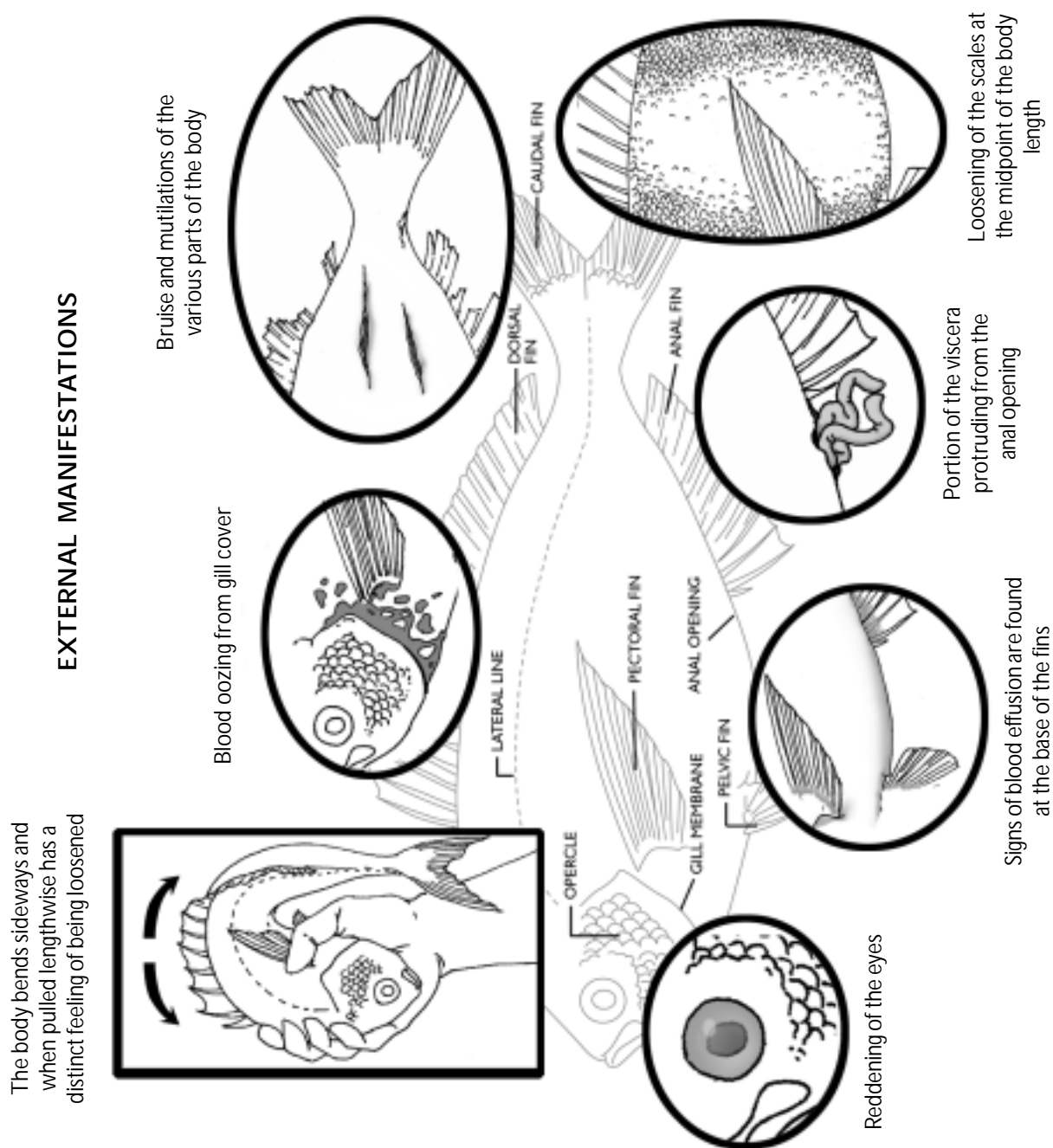


Figure 23. Guide to the recognition of fish caught with the use of explosives.

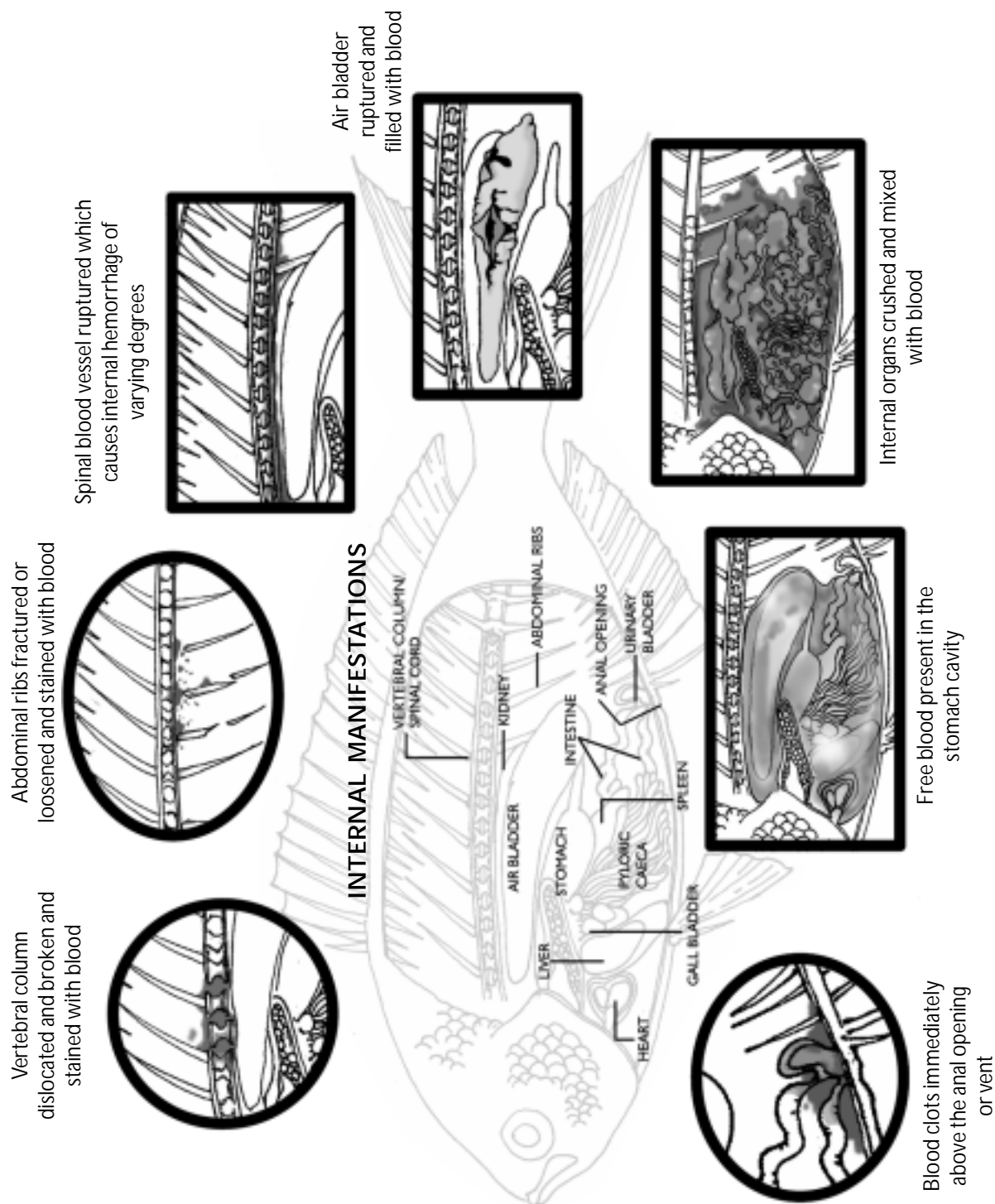


Figure 23. (continued)

Table 24. Strategies to address municipal fishing-related violations.

Enforcement objective	Enforcement strategies	Evidence/Information needed
Increase awareness of benefits of the law and encourage reporting of violations	<ul style="list-style-type: none"> ◆ Conduct consultations with coastal stakeholders about the impacts of using destructive fishing practices ◆ Post signboards listing national and local fisheries laws and regulations ◆ Establish registration and licensing system for municipal fishers, boats, and gear ◆ Monitor registered municipal fishers and deny licenses to violators ◆ Establish and strengthen deputized fish wardens/<i>Bantay Dagat</i> to gather information on illegal activities and assist in coastal law enforcement alongside trained local police ◆ Report incidences in the police blotter specifying time and place if perpetrator is not known 	<ul style="list-style-type: none"> ◆ Office and contact number/s where violations can be reported ◆ Municipal fishers registration and licenses ◆ List of fishers registered in the municipality posted and updated annually ◆ Affidavit or sworn statements from witness to violations ◆ Police blotter reports
Stop the use of explosives, noxious substances, and other related paraphernalia used to catch fish illegally	<ul style="list-style-type: none"> ◆ Patrol boat landings to visually search for explosives and other illegal substances used in fishing ◆ Patrol municipal waters for use of fine-mesh nets, explosives, and other illegal substances used in fishing ◆ Conduct market denial operations to detect blasted fish or fish caught with cyanide ◆ Sample fish for cyanide and send samples to Cyanide Detection Laboratory ◆ Identify and monitor fishing boats equipped with compressors ◆ Enact local legislation banning use of compressors as a strategy to stop the use of cyanide and other destructive and overexploitive fishing practices 	<ul style="list-style-type: none"> ◆ Explosive or illegal substances photographed and recorded ◆ Cyanide detected from laboratory results of fish samples ◆ Fishing licenses ◆ Fish examination report by licensed fish examiner to determine use of explosives
Regulate source of explosives and blasting paraphernalia	<ul style="list-style-type: none"> ◆ Identify and conduct raids of illegal warehouses, storage areas, and areas where explosives are being manufactured ◆ Monitor licensed warehouses and storage areas ◆ Inventory monitoring and control 	<ul style="list-style-type: none"> ◆ Licenses and permits for warehouses and storage areas ◆ Inventory records
Regulate source of cyanide and other noxious substances used in fishing	<ul style="list-style-type: none"> ◆ Raid illegal storage areas ◆ Verify legal documentation of storage areas 	<ul style="list-style-type: none"> ◆ Licenses and permits for warehouses and storage areas
Regulate live fish trade	<ul style="list-style-type: none"> ◆ Establish certification system that ensures collection of live fish was conducted without the use of chemicals and in a sustainable manner 	<ul style="list-style-type: none"> ◆ Certification issued for live fish trade by reputable NGO or government agency

(continued)

Table 24. (continued)

Enforcement objective	Enforcement strategies	Evidence/Information needed
Verify the mesh size of a fishing net	<ul style="list-style-type: none"> ♦ Patrol fishing villages and boat landings for fishing nets with illegal mesh size ♦ Notify owner and neighbor that fishing net is illegal 	<ul style="list-style-type: none"> ♦ Nets with mesh size smaller than 3 cm when fully stretched or double-netted measured, photographed, and documented as to location, owner
Enforce regulations on the use of superlights	<ul style="list-style-type: none"> ♦ Patrol boat landings for lights used by municipal fishers ♦ Inspect lights used by municipal and commercial fishers ♦ Establish registration and licensing system for municipal fishers, boats, and gear ♦ Monitor registered municipal fishers and deny licenses to violators ♦ Patrol fishing villages, boat landings, and ports to determine if municipal and commercial fishing boats are using superlights 	<ul style="list-style-type: none"> ♦ Light type and intensity recorded ♦ Vessel size and classification recorded ♦ Plotted and verified position of vessel with GPS or other standard navigational procedures
Determine if active gear is used by municipal fishers	<ul style="list-style-type: none"> ♦ Establish registration and licensing system for municipal fishers, boats, and gear ♦ Monitor registered municipal fishers and deny licenses to violators ♦ Patrol boat landings to monitor and classify gear used for fishing ♦ Patrol municipal waters to determine location and gear used for fishing 	<ul style="list-style-type: none"> ♦ Type of gear photographed and recorded ♦ Size of boat documented ♦ Plotted and verified position of vessel with GPS or other standard navigational procedures

Illegal storage, manufacturing, or sales of blasting caps or other paraphernalia used in the preparation of an explosive can be the subject of an enforcement action. Raids on warehouses where explosives are kept, areas where blasting caps and other paraphernalia are manufactured can be used to eliminate the source of blasting materials. The requirement for ammonium nitrate and other fertilizers to be sold only in liquid form (Cebu City Ordinance) would eliminate this important ingredient in blast fishing.

Poisonous and noxious substances. The use and mere possession of cyanide or other noxious and poisonous substances to stun and capture reef fish alive and the sale of these fish to the aquarium and restaurant industry are illegal. Fishers diving with the use of a compressor on a boat, stun fish by squirting sodium cyanide into reef areas where the fish live. Cyanide not only poisons the fish, but kills their coral reef habitat and the other small invertebrates living on the reef. To capture fish hiding in the reef, some cyanide fishers rip the coral reefs apart with crowbars to capture the disoriented fish, causing further reef destruction.

A major difference between blast fishers and cyanide fishers is the economic benefits. Potential economic benefits from live fish are significantly greater than that for dead fish. Unlike blast fishing, which can be seen and heard for some distance, however, the use of cyanide is not as readily detectable. The Philippines has established educational programs and set up detection facilities (the Cyanide Detection Test laboratories of the BFAR operated by the International Marinelife Alliance) to monitor fish exports for traces of cyanide. However, laboratory detection rates for cyanide are low because cyanide is a highly volatile substance that rapidly becomes undetectable soon after use. For this reason, many LGUs are now banning the use of compressors which are easier to detect, as a way to eradicate the use of cyanide in fishing.

Superlights. The use of superlights is prohibited in municipal waters; however, the mere possession of superlight is not illegal. Coastal law enforcers must apprehend violators in the act of using superlights illegally. Municipal and commercial fishing operators use superlights to attract fish. The wattage of the light is regulated for small-, medium-, and large-scale commercial fishing boats. Coastal law enforcers must characterize the specifications of the bulb, the size of the fishing vessel where it is being operated, and the area of operation, either inside or outside municipal waters. Seaborne operations at night are generally required to apprehend violators illegally using superlights. Routine inspections of lights used by municipal and commercial fishing vessels at port can be conducted to determine if the light is classified as a “superlight” and if the specifications match the vessel size.

Fine-mesh nets. Fine-mesh nets are used illegally by municipal and commercial fishers. The use of this gear enables overexploitation of fish stocks, where too small fish and too many fish are captured. A common loophole employed by fishers is to double up nets with legal mesh sizes to create a net with a small mesh size. Any use of nets that results in a mesh size below the 3 cm legal standard is illegal. Inspections on fishing boats before leaving the shore is an efficient strategy for regulating the use of illegal nets. Community consultations should be conducted during these inspections to increase awareness of the detrimental effects of using fine-mesh nets on fisheries production.

Strategies to address common commercial fishing related-violations

The enforcement elements of commercial fishing related-violations may be land-based or sea-based and cover **persons, properties or resources**, and **acts of persons towards the properties or resources** (Figure 24). **Persons** may refer to owners and operators of commercial fishing vessels, fishworkers, fish vendors, exporters, or other individuals licensed to operate in the commercial fishing industry. **Properties or resources** may refer to commercial fishing vessel, gear, or related paraphernalia used to catch fish. **Acts of persons toward the properties or resources** may refer to the use of active gear in municipal waters, capture of species protected by law, or sale or export of illegally caught fish.

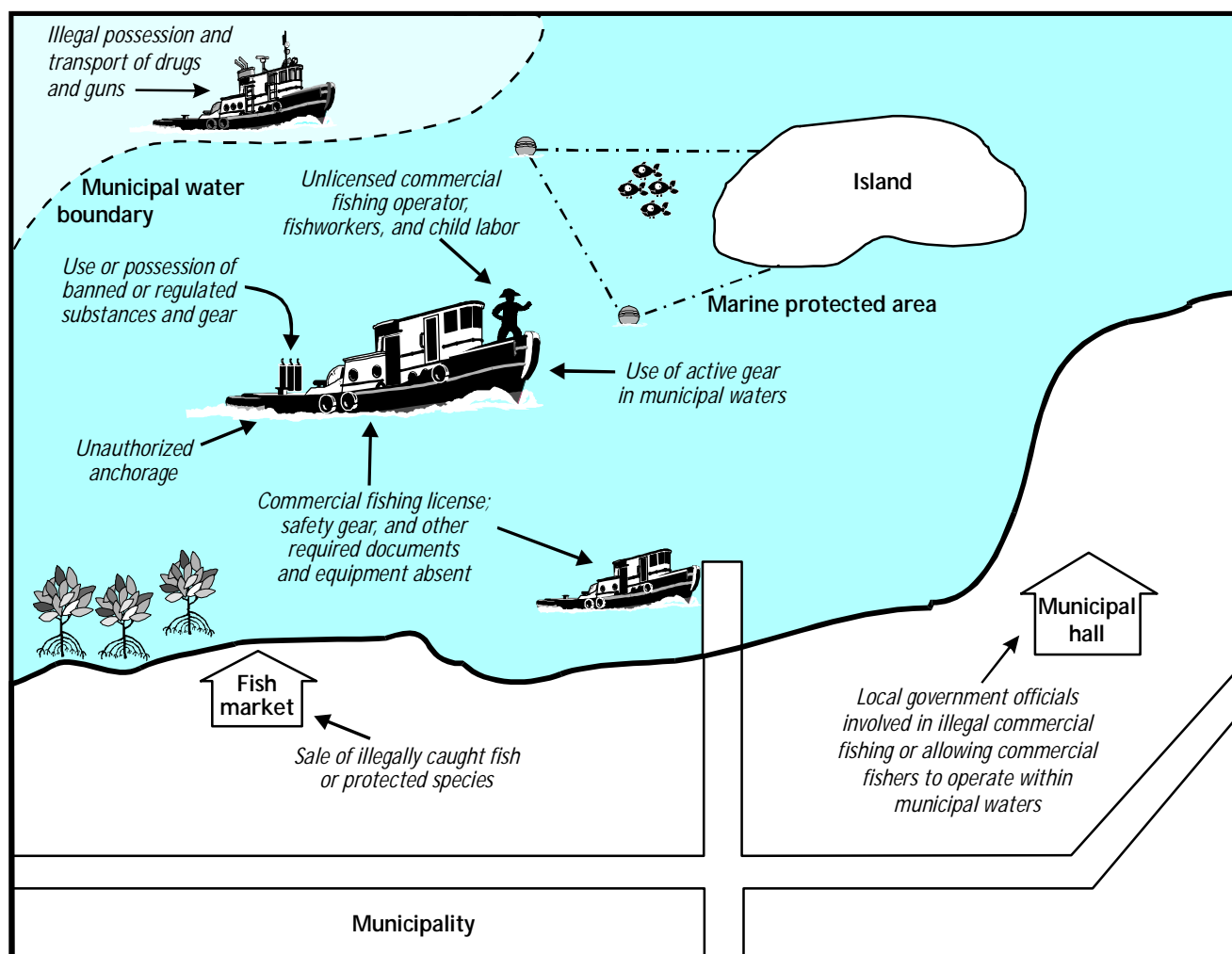


Figure 24. Enforcement elements of common commercial fishing violations.

Most commercial fishing-related violations must be addressed using hard coastal law enforcement approaches because law enforcers are dealing with complex establishments and not individuals as in the case of municipal fishers (Table 25). The activities of commercial fishers are complicated and regulated by a number of applicable laws that cut across different facets of the business. National laws and regulations provide the overall framework for BFAR to sustainably manage commercial fishing areas and resources through the issuance of commercial fishing licenses and monitoring. Hard coastal law approaches, involving patrol, apprehensions, and convictions, must be used by agencies like the PCG and the police in addressing commercial fishing-related violations.

Unlike municipal fishing-related violations, commercial fishing is complex involving many players such as fishworkers, boat captains, crews, owners, operators, concessionaires, and other traders. Commercial fisheries operate to trade and make profit. Violations therefore are geared towards increasing the profit.

Table 25. Strategies to address commercial fishing-related violations.

Enforcement objective	Enforcement strategies	Evidence/Information needed
Increase awareness of benefits of laws and encourage reporting of violations	<ul style="list-style-type: none"> ◆ Conduct consultations with coastal stakeholders to inform about where commercial fishing is allowed and impacts of commercial fishing in municipal waters ◆ Post maps in municipal/city and <i>barangay</i> halls showing municipal water boundaries and other water use zones established in CRM plan 	<ul style="list-style-type: none"> ◆ Maps showing where commercial fishing is allowed ◆ IEC material describing impact of commercial fishing on livelihood of municipal fishers ◆ Office and number where violations can be reported ◆ Recorded violation on police blotter ◆ Affidavit from individual reporting violation
Discourage commercial fishing vessel from encroaching in municipal waters	<ul style="list-style-type: none"> ◆ Delineate municipal water boundaries according through NAMRIA guidelines, produce official map showing municipal water boundaries certified by NAMRIA; enact local ordinance with municipal water boundary coordinates specified ◆ Prohibit the use of <i>payaos</i> and other forms of fish aggregating devices in municipal waters through local legislation that enable overexploitation of fishery resources ◆ Conduct regular seaborne patrols of the municipal waters by coastal law enforcement unit of the municipality/city ◆ Document the presence of vessel in areas where municipal water boundaries have been delineated and demonstrate absence of waters where commercial fishing is allowed (e.g. as in the case of straits where the width is less than 30 km) 	<ul style="list-style-type: none"> ◆ NAMRIA certification and local legislation for delineation of municipal water boundaries ◆ Official map certified by NAMRIA showing location of municipal water boundaries and coordinates ◆ Plotted and verified position of vessel with GPS or other standard navigational procedures ◆ Photograph or affidavit verifying the commercial vessel was fishing in municipal waters ◆ Plotted and verified position of the vessel is within 10.1 km from the shoreline in the case where an LGU has delineated its municipal waters allowing small and medium-scale commercial fishers in 10.1 to 15 km from the shoreline as defined in RA 8550 with valid municipal ordinance
Regulate commercial fishing industry	<ul style="list-style-type: none"> ◆ Revoke licenses of erring commercial fishing vessels especially repeat violators ◆ Deny licenses to applicants with engine horsepower that does not match tonnage and distance from fishing ground ◆ Establish carrying capacity of critical commercial fishing grounds ◆ Regulate the number of commercial fishing licenses issued based on scientific studies ◆ Monitor shipyards of commercial fishing boat builders 	<ul style="list-style-type: none"> ◆ Police records reviewed to detect repeat violators ◆ License application form ◆ BFAR record of licenses of commercial fishing operators

(continued)

Table 25. (continued)

Enforcement objective	Enforcement strategies	Evidence/Information needed
Inspect and validate commercial fishing license	<ul style="list-style-type: none"> ◆ Conduct dialogue with commercial fishing fleet as to where fishing is allowed ◆ Review license for authenticity and conditions for operation ◆ Verify tonnage, area of operations, and other conditions of operation 	<ul style="list-style-type: none"> ◆ Absence of valid commercial fishing license ◆ Misrepresentation of size of vessel on license ◆ Operating outside area where license is valid
Inspect and validate fishworkers license	<ul style="list-style-type: none"> ◆ Review of license for fishworkers on the commercial fishing vessel ◆ Verify name of fishworker on license with alternative identification ◆ Check validity of license, 3 years after issuance 	<ul style="list-style-type: none"> ◆ Absence of valid fishworkers license ◆ Individual is using a false name on license
Inspect fishing gear for compliance with commercial fishing license	<ul style="list-style-type: none"> ◆ On-board inspection of gear used in commercial fishing at sea or in port 	<ul style="list-style-type: none"> ◆ Commercial fishing license is not valid for type of gear used ◆ Type of gear is prohibited by law
Inspect vessel markings	<ul style="list-style-type: none"> ◆ On-board inspection of vessel markings at sea or in port 	<ul style="list-style-type: none"> ◆ Visual markings and lights do not comply with safety standards
Inspect fish catch	<ul style="list-style-type: none"> ◆ On-board inspection of fish catch for endangered species, dynamited fish, and other potential illegal cargo including drugs, smuggled items ◆ Increase enforcement actions related to dynamite and other destructive fishing practices employed by municipal fishers that supply fish to commercial fishing operators 	<ul style="list-style-type: none"> ◆ Report by licensed fish examiner as to the nature of the fish catch with supporting evidence and photographs
Inspect safety gear	<ul style="list-style-type: none"> ◆ On-board inspection of safety gear required by law 	<ul style="list-style-type: none"> ◆ Absence of safety gear including life jackets for each crew member

Commercial fishing operators (captain and crew) tend to violate the law because of the low penalties and level of risk to the operator. If commercial fishing operators are not detected or punished, the violation will be repeated. If the repeat violation becomes endemic, meaning, either violation of the law has become habitual or other violators like themselves are seen as not detected or not punished, the violators will no longer recognize the law and will challenge authorities that will attempt to enforce them. Armed and physical resistance of commercial fishing operators to coastal law enforcement units is an increasingly common problem.

Rampant intrusion of commercial fishing inside municipal waters has been noted to persist all over the country. The degraded condition of fish stock nationwide, increasing fuel and manpower costs, and low risk of apprehension all contribute to illegal activities committed by commercial fishing operators. Furthermore, commercial fishing licenses are regularly issued for fishing grounds, which are already overfished and to repeat violators.

Commercial fishing operators also promote the acceptance of commercial fishing in municipal waters among the LGUs themselves or among factions of coastal communities by providing economic incentives. Commercial fishing operators make arrangements with LGUs or coastal community members for the use of *payaos* or fish aggregating devices. Commercial fishing operators are allowed to fish around *payaos* without being reported and provide a portion of the catch or other incentives to individuals in the community. Community education and outreach programs must include information on the impact of commercial fishing in municipal waters and the use of fish aggregating devices on the degradation of municipal fish stocks.

National government agencies, in particular, BFAR, PNP-MG, and the PCG are primarily responsible for the licensing of commercial fishing operators and vessels, enforcing fisheries laws, and ensuring vessel seaworthiness, respectively. These agencies and others must develop strategies that will pull the commercial fishing vessels away from municipal waters (Figure 25). Orientation sessions with commercial fishing operators and crew to discuss the terms and conditions of their commercial fishing license should be conducted by BFAR prior to issuance or renewal.

An interagency reporting protocol between BFAR, PNP, PCG, and other key agencies such as NBI, is required to monitor commercial fishing operators and report violations. Without such a system, commercial fishing operators are allowed to repeatedly violate the terms of their

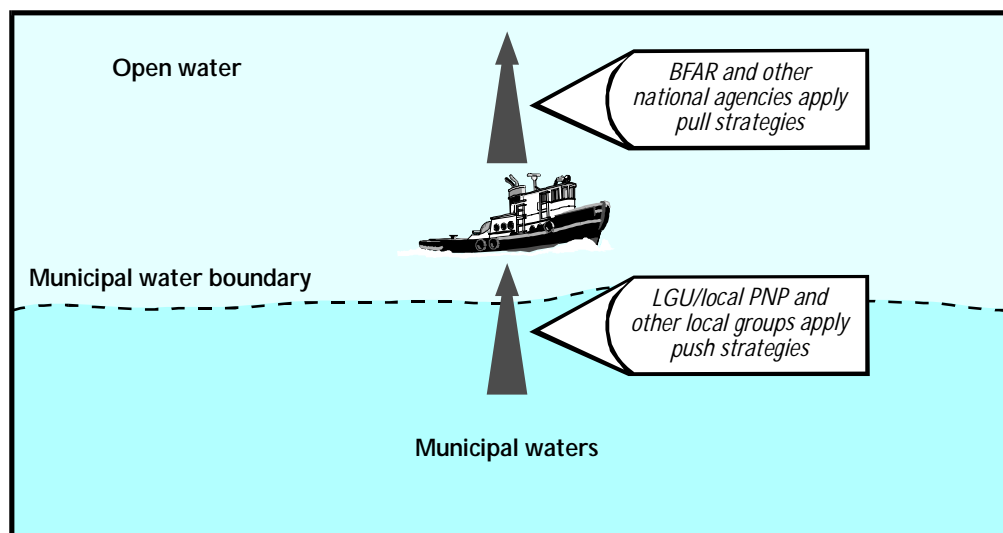


Figure 25. Push and pull strategies for stopping illegal intrusion of commercial fishing in municipal waters.

commercial fishing licenses as well as national laws. BFAR should review licenses issued to commercial fishing boat operators and check if declared gross tonnage matches with engine horsepower and ability to reach purported fishing ground. Finally, penalties for commercial fishing in municipal waters should be substantially increased and made commensurate with penalties imposed on foreign fishing vessel intrusion in Philippine waters through an amendment to the Fisheries Code.

LGUs must develop and implement strategies that will *push* commercial vessels away from municipal waters (Figure 25). Regular patrolling must be conducted by the LGU with multisectoral coastal law enforcement units consisting of deputized fish wardens, *Bantay Dagat*, and local PNP. Commercial fishing operators observed intruding in municipal waters should be reported on the police blotter as “relevant information for guidance.” These violations should be reported to the national government through the interagency reporting system.

There are many opportunities to improve coastal law enforcement functions through proper coordination. Currently, key national government agencies operate largely independently of each other. For example, BFAR, PCG, and PNP all play a key role in enforcing fisheries laws related to commercial fishing. Commercial fishing vessels must obtain a certificate of seaworthiness from the PCG before BFAR is able to issue a commercial fishing license. BFAR is tasked to ensure compliance of commercial fishing operators with the terms and conditions of their license. PCG and PNP-MG are tasked to apprehend violators of safety at sea and fisheries laws. PCG, PNP-MG, and BFAR must collaborate in sharing information and tracking violations of commercial fishing licenses as in the case of a commercial fishing vessel apprehended illegally fishing in municipal waters or vessels not complying with safety standards. Coordination and sharing of information between multiple agencies may result in the revocation of the commercial fishing license. Monitoring, control and surveillance involving these agencies with BFAR as the lead should be seriously considered. This is a cost-effective strategy that will send a strong message to violators.

STRATEGIES TO ADDRESS PROTECTED AQUATIC SPECIES-RELATED VIOLATIONS

The enforcement elements of protected species-related violations may be land-based or sea-based and cover **persons, properties or resources**, and **acts of persons towards the properties or resources** (Figure 26). **Persons** may refer to municipal or commercial fishers, tourist shop owners, shell exporters, or other individuals involved in the illegal capture, collection, and trade of protected species. **Properties or resources** may refer to fishing boats, gear, or banned or regulated substances as well as species protected under national and international laws. **Acts of persons toward the properties or resources** may refer to the capture of and trade in corals, sea turtles, marine mammals, and other protected species as by-catch of commercial fishers or primary catch of municipal and commercial fishers.

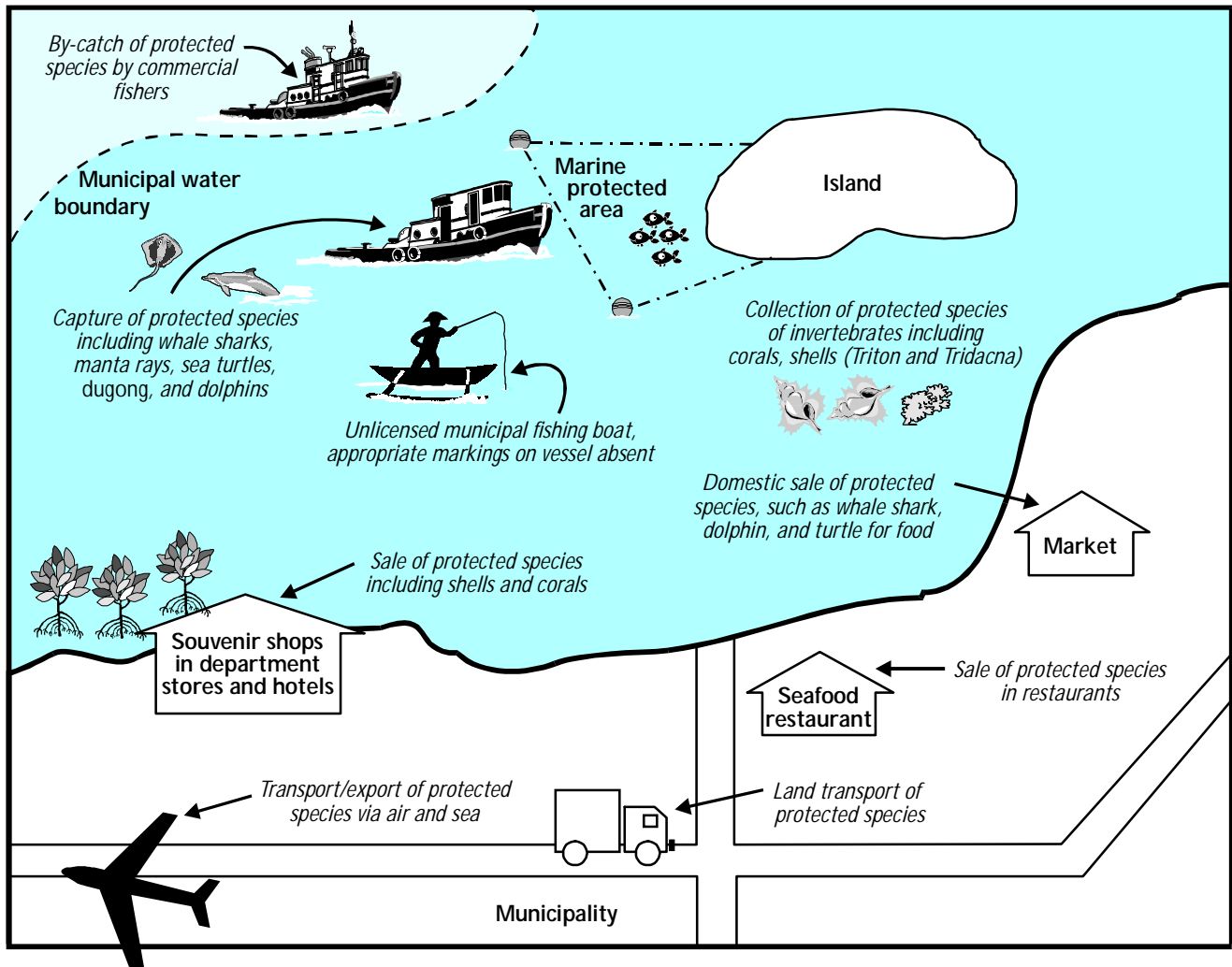


Figure 26. Enforcement elements of common protected aquatic species violations.

Corals. All stony corals are listed under the Convention on International Trade of Endangered Species (CITES). The collection or exportation of coral is banned in the Philippines and many other nations with threatened coral reefs.

One strategy to limit coral collection is by engaging the community in a simplified coral reef assessment on top of coral reef ecosystem education. Reef assessment conducted by LGUs will serve as an inventory system of corals that the community has. Involving elementary and high school students and other stakeholders will also increase the number of eyes and ears monitoring the critical resource. BFAR and a school with marine sciences may be a good partner in this undertaking.

Other species. In addition to corals, many other reef species are sold as souvenirs or for private aquariums, including giant clams, shells, puffer fish, seahorses, starfish, sea urchins, sea fans, sponges, and “live rock” covered with tropical barnacles or other crustaceans. Of these, only giant clams are currently protected under the CITES (Table 8). The collection of reef dwellers for souvenirs and for private aquariums is not only detrimental to the individual species population, but can also cause extensive damage to the entire coral reef ecosystem.

One way to halt the trade in protected species is not to purchase coral jewelry or other marine souvenirs unless you are certain that they have been farmed or produced in sustainable aquaculture operations. Since this does not exist in the Philippines, there should be no trade in these organisms.

One unexplored strategy is the deputization of dive shop owners, dive instructors, or any qualified marine experts in the community by the LGU to inspect souvenir shops or establishments known to have collected endangered species. The office of the mayor through the office of the agriculturist or environmental management has the power to deputize agents of the LGU. Some strategies to address protected species-related violations are enumerated in Table 26.

Table 26. Strategies to address protected aquatic species-related violations.

Enforcement objective	Enforcement strategies	Evidence/Information needed
Encourage reporting violations	<ul style="list-style-type: none"> ◆ Develop information materials and signboards on species protected by national laws and international treaties ◆ Conduct consumer advocacy campaign to stop purchasing shell products or other items made of protected species 	<ul style="list-style-type: none"> ◆ Office and number where violations can be reported
Stop illegal collection of protected species	<ul style="list-style-type: none"> ◆ Prohibit or regulate aquatic species exploitation ◆ Adopt local legislation prohibiting or regulating collection, exploitation, and sale of aquatic species that are endangered in specific localities and are not already prohibited or regulated under national laws ◆ Conduct regular patrols and monitoring of municipal fishers catch ◆ Develop and promote culture techniques for shells such as giant clams 	<ul style="list-style-type: none"> ◆ Assessment of status of aquatic species ◆ Confiscation of protected species
Stop illegal sale or export of protected species	<ul style="list-style-type: none"> ◆ Conduct periodic monitoring of souvenir shops and shell trading centers for possession, sale, and export of protected species ◆ Conduct market denial operations for protected species used for food ◆ Improve dockside and customs inspections of export products 	<ul style="list-style-type: none"> ◆ Confiscation of protected species

STRATEGIES TO ADDRESS COASTAL HABITAT-RELATED VIOLATIONS

The enforcement elements of coastal habitat-related violations may be land-based or sea-based and cover *persons*, *properties or resources*, and *acts of persons towards the properties or resources* (Figure 27). *Persons* may refer to tourism, industrial, and fishpond developers, coastal residents, municipal or commercial fishers, coral exporters, local government officials, or other individuals involved in extractive and destructive uses of coastal habitats. *Properties or resources* may refer to fishing boats, gear, or banned or regulated substances and living and nonliving resources that make up the coastal habitat. *Acts of persons toward the properties or resources* may refer to the entry of fishers in marine sanctuaries or other areas where coastal habitat use is regulated, cutting mangroves for fishpond development or reclamation projects, collecting and exporting coral animals, or mining marine sands.

Strategies to address habitat-destructive fishing practices, such as the use of explosives and cyanide discussed in Table 24 are included in this section. A hard enforcement strategy must be

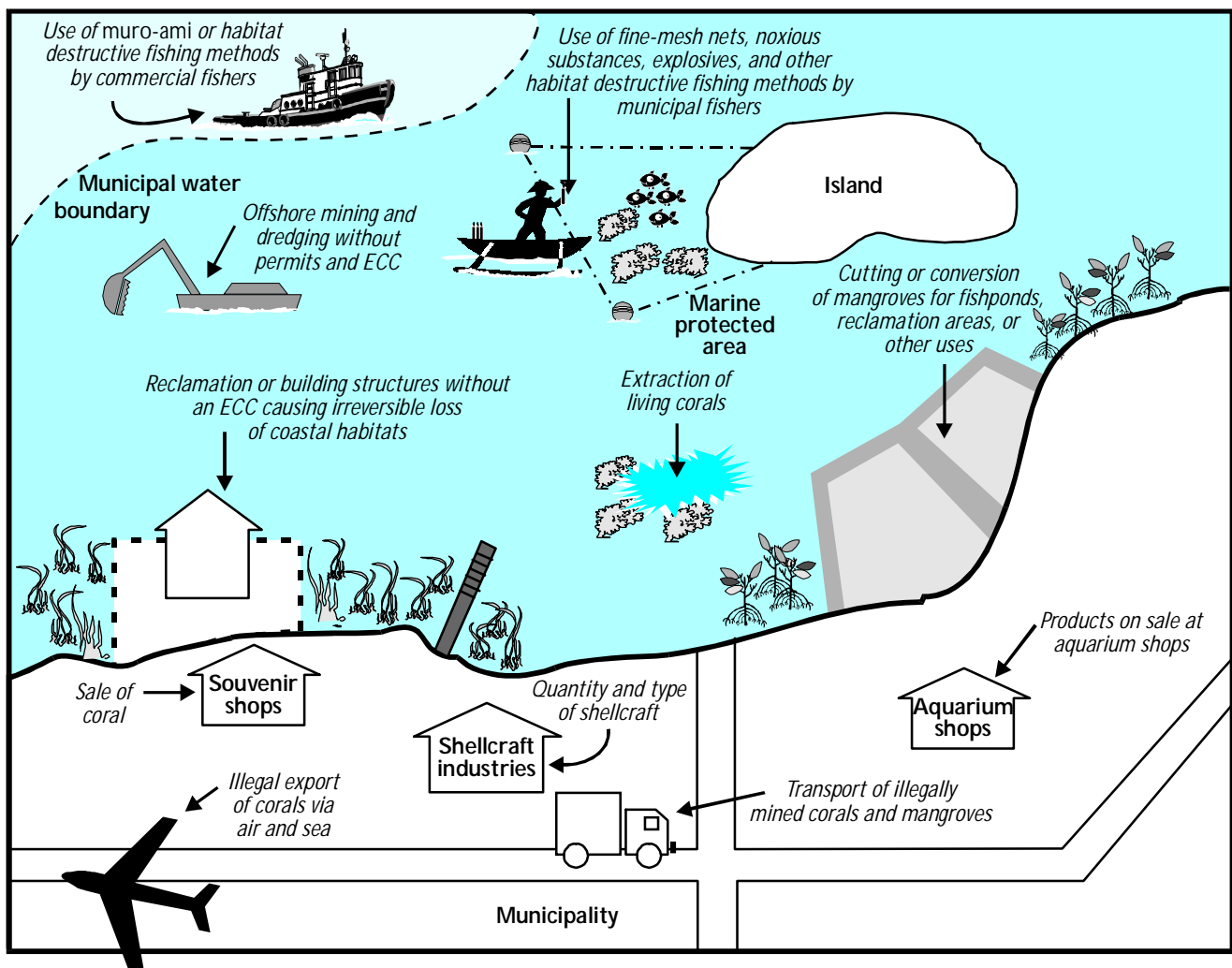


Figure 27. Enforcement elements of coastal habitat-related violations.

employed in coastal habitat-related violations more than soft enforcement strategies because the extent of damage is already serious and because violators are mostly engaged in business interests that are governed by complex rules and standards.

Strategies that must be employed in coastal habitat-related violations are similar to the intrusion of commercial fishing vessel except that DENR plays an important role in monitoring compliance to forestry habitat along with the DA-BFAR for the marine habitat. Table 27 enumerates other strategies.

Table 27. Strategies to address coastal habitat-related violations.

Enforcement objective	Enforcement strategies	Evidence/Information needed
Encourage reporting violations	<ul style="list-style-type: none"> ◆ Conduct consultations with coastal stakeholders to inform them about the importance and value of coral reefs, mangroves, and seagrass beds ◆ Deputize forest and fish wardens ◆ Operationalize quick response team of the DENR and DA-BFAR ◆ Strengthen initiatives to integrate CRM in elementary education ◆ Develop information materials and signboards on common coastal habitat-related violations and distribute to coastal stakeholders 	<ul style="list-style-type: none"> ◆ LGU and PNP Offices and numbers where violations can be reported
Stop cutting of mangroves or conversion of mangroves to other uses	<ul style="list-style-type: none"> ◆ Promote community-based forest management agreements that give tenurial instruments to POs for the sustainable use of mangrove forest areas ◆ Conduct regular land-based and sea-based patrols of mangrove areas to monitor illegal cutting for ports, harbors, reclamation areas, and fishpond expansion ◆ Inspect fishponds and monitor terms and conditions of fishpond lease agreement for illegal expansion or reclamation and noncompliance with terms and conditions ◆ Encourage mangrove replanting programs by schools and civic action groups 	<ul style="list-style-type: none"> ◆ CBFMA issued to POs by DENR ◆ Photographs of persons cutting mangroves ◆ Cut mangrove wood ◆ Fishpond lease agreement
Stop illegal collection, sale, and export of corals	<ul style="list-style-type: none"> ◆ Inspect boat landings, export facilities for possession of corals ◆ Establish checkpoints along land routes commonly used to transport corals ◆ Regularly monitor exports at Customs office 	<ul style="list-style-type: none"> ◆ Confiscation of corals
Stop illegal marine sand mining	<ul style="list-style-type: none"> ◆ Patrol nearshore coastal areas to monitor coastal resource use and check licenses 	<ul style="list-style-type: none"> ◆ Marine sands

Coastal habitats are vital to sustaining municipal fisheries production, protecting the shoreline from erosion, and other ecological functions and economic benefits. Although the use of destructive fishing practices by small-scale fishers is often cited as the cause of coastal habitat degradation, there are many other equally destructive activities employed by other coastal stakeholders including construction of dikes, seawalls, and other structures in foreshore areas by private developers; reclamation of mangrove habitats and fishponds to make land area for municipal garbage dumps, private development, and other purposes, and collection of corals for export. Enforcing national and local laws designed to protect coastal habitats will safeguard coastal shorelines from increasing erosion, ensure food security, and sustain significant economic benefits derived from coastal resources.

STRATEGIES TO ADDRESS FORESHORE AND SHORELINE DEVELOPMENT-RELATED VIOLATIONS

The enforcement elements of foreshore and shoreline development-related violations may be land-based or sea-based and cover **persons, properties or resources, and acts of persons towards the properties or resources** (Figure 28). **Persons** generally refer to coastal land

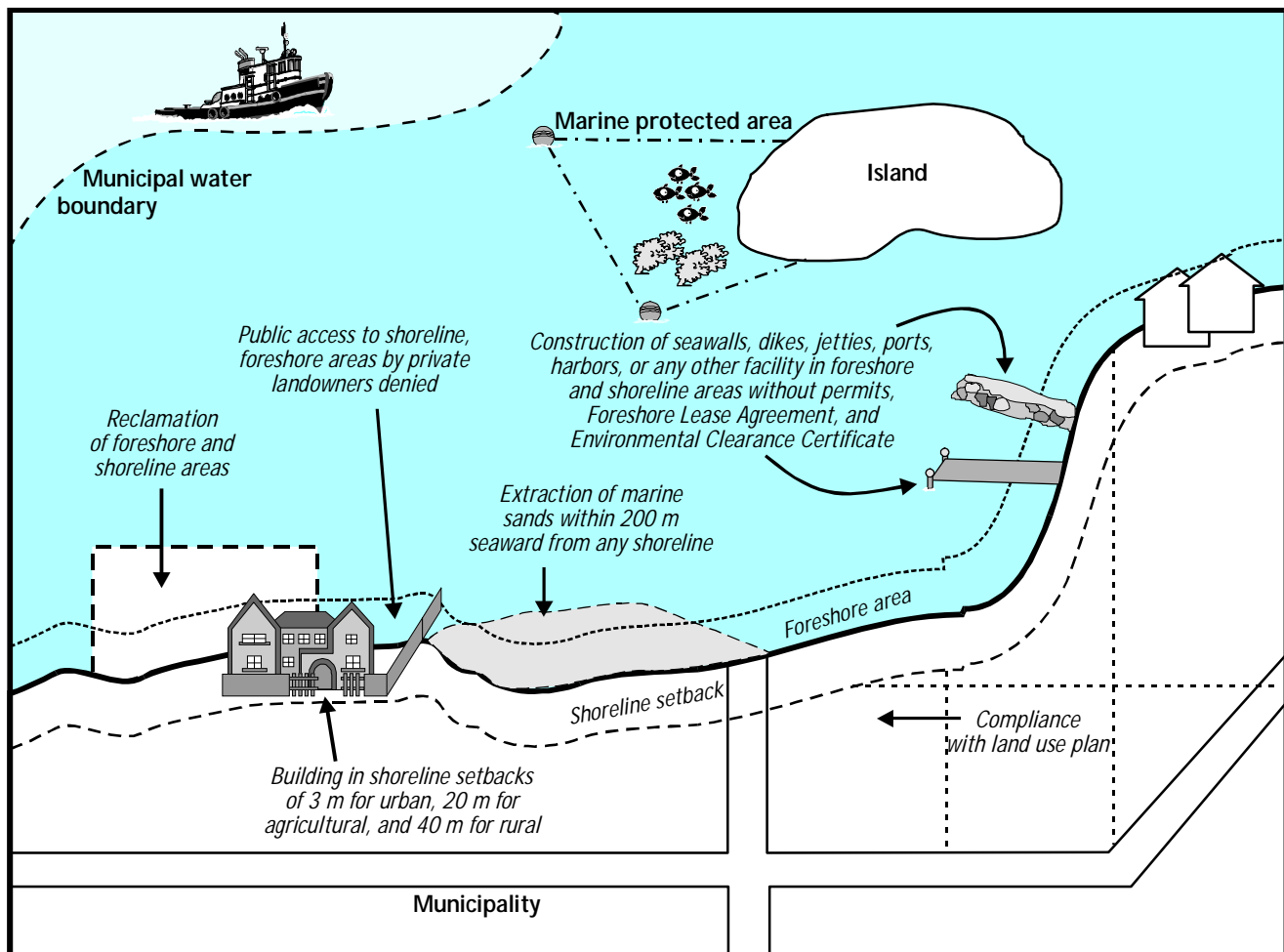


Figure 28. Enforcement elements of common foreshore and shoreline development-related violations.

owners, industrial or tourism developers, and operators or other individuals involved in the use of the foreshore and shoreline areas. **Properties or resources** refer to structures constructed illegally along the shoreline. **Acts of persons toward the properties or resources** may refer to construction of seawalls or facilities within buffer zones or other restricted areas declared by national and local laws.

Hard enforcement must take precedence over soft enforcement strategies in addressing foreshore and shoreline-related violations because these are mostly deliberate acts of breaching agreements. One distinct feature about foreshore and shoreline development-related violations is the existence of a legal instrument binding the violators with the government, giving the government an upper hand in addressing the violations. Violations occur because of poor monitoring of noncompliance with agreements or lack of approved agreements and permits (Table 28).

The improper use of shoreline and foreshore areas is causing increased coastal erosion and pollution of nearshore areas. The lack of enforcement of shoreline setback requirements results

Table 28. Strategies to address common foreshore and shoreline development-related violations.

Enforcement objective	Enforcement strategies	Evidence/Information needed
Encourage reporting violations	<ul style="list-style-type: none"> ◆ Develop information materials on coastal erosion and impacts of construction in foreshore and setback areas 	<ul style="list-style-type: none"> ◆ Office and number where violations can be reported
Stop illegal use of foreshore	<ul style="list-style-type: none"> ◆ Regularly monitor foreshore areas for unauthorized development ◆ Stop issuing foreshore lease agreements by DENR ◆ Develop stringent terms and conditions for foreshore lease agreements that protect the shoreline and coastal habitats ◆ Incorporate shoreline setbacks and shoreline and foreshore protection zones in comprehensive land use plans ◆ Enact local legislation prohibiting the issuance of foreshore lease agreements along the municipal shoreline and banning the issuance of mayor's permits for construction in foreshore areas ◆ Regular monitoring of foreshore lease agreements and environmental clearance certificates ◆ Regularly patrol shoreline areas 	<ul style="list-style-type: none"> ◆ Foreshore lease agreement ◆ Environmental compliance certificate ◆ Photographs of illegal activities ◆ Plotted and verifiable position of illegal structures in foreshore area or absence of 3 m public right of way
Stop illegal use of shoreline setbacks	<ul style="list-style-type: none"> ◆ Regularly monitor shoreline use and construction ◆ Patrol shoreline areas for violations of shoreline setback requirements 	<ul style="list-style-type: none"> ◆ Environmental compliance certificate ◆ Photographs of illegal activities ◆ Plotted and verifiable position of illegal structures in shoreline setbacks
Stop mining of beach sand	<ul style="list-style-type: none"> ◆ Patrol shoreline areas for illegal sand mining 	<ul style="list-style-type: none"> ◆ Beach sand ◆ Photographs of illegal activities

in the construction of buildings and other structures that inhibit the flow and ebb of the tide thereby increasing coastal erosion and marine pollution. The strict enforcement of shoreline setbacks and prohibitions from construction in foreshore areas will be increasingly important as predictions of sea level rise associated with global climate change materialize. These violations until reported will remain unnoticed by authorities. It is often difficult for the general public or LGUs to intervene because legal instruments such as ECCs and foreshore lease agreements are exclusively between contracting parties in this case, DENR and the private developers.

One strategy that must be considered is for DENR to coordinate with LGUs in the issuance of foreshore lease agreements and compliance with the EIS System. LGUs should be consulted before foreshore lease agreements are issued by the DENR to ensure consistency with land use, CRM, and development plans being implemented by the municipality. Similarly, DENR must implement appropriate consultations with the LGU and coastal stakeholders before ECCs are issued for projects in the coastal zone. LGUs and coastal communities must be actively involved in multi-sectoral monitoring teams tasked with ensuring compliance with the terms and conditions of the ECC.

Other NGAs with mandates to conduct projects in the territory of the municipality, such as the construction of ports by PPA or reclamation projects of the PEA, must invoke appropriate consultation and concurrence of the LGU and coastal stakeholders as well as comply with the EIS System prior to initiating of any NGA project in the coastal zone.

Foreshore and shoreline areas are critical coastal features impacted by a variety of human activities. Without proper management of these areas and enforcement of national and local laws and regulations, severe degradation will continue to threaten coastal habitats, public access and use, and economic development, especially for tourism.

STRATEGIES TO ADDRESS COASTAL AND MARINE POLLUTION-RELATED VIOLATIONS

The enforcement elements of marine pollution-related violations may be land-based or sea-based and cover **persons, properties or resources, and acts of persons towards the properties or resources** (Figure 29). **Persons** may refer to coastal, lowland, and upland residents; maritime, manufacturing, and tourism developers and operators; or other individuals involved in the production, discharge, or release of point and nonpoint sources of liquid or solid wastes that may reach the ocean. **Properties or resources** refer to liquid or solid; nontoxic, toxic or hazardous wastes from pipes, dumps, agricultural areas, industrial facilities, and other sources. **Acts of persons toward the properties or resources** may refer to dumping, discharge, or release of wastes on land or into rivers, esteros, and the ocean.

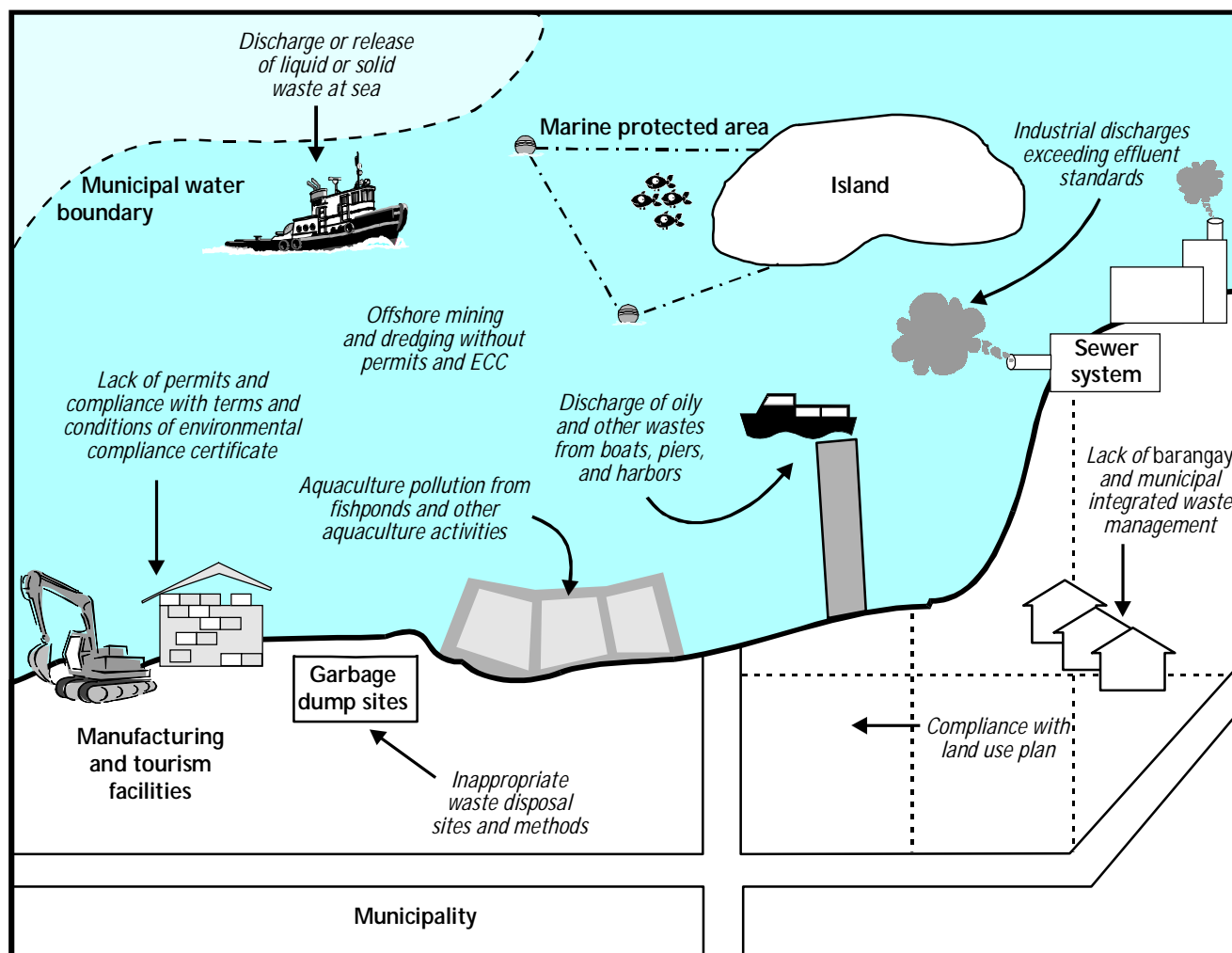


Figure 29. Enforcement elements of common marine pollution-related violations.

Hard enforcement must be employed to address coastal and marine pollution-related violations over soft enforcement. This is because the damage it may cause could be irreparable and violations are mostly non-compliance to existing terms of agreement therefore constituting a deliberate act to violate the law. Some strategies to address pollution-related violations are enumerated in Table 29.

Marine pollution-related violations whether land-based or sea-based mostly occur because of lack of investment in infrastructural requirements or devices required to minimize, prevent, or control pollution (Table 29). Oil spills and other accidental discharges may actually be avoided if establishments and shipping lines comply with these requirements in the first place.

These violations happen because, just like foreshore and shoreline-related violations, there is a lack of monitoring of marine pollution-related violations. While addressing marine pollution-related issues may be technical in nature, LGUs may actually capacitate themselves by engaging the expertise of NGAs on these issues.

The PCG, for example, has a Marine Environmental Protection Command composed of highly trained marine pollution officers. LGUs have the right to request the Department of Transportation and Communications (DOTC) or the Commandant of the PCG for these officers to transfer the technology they acquired abroad at no expense to the LGUs because they have been trained at government expense.

Table 29. Strategies to address pollution-related violations.

Enforcement objective	Enforcement strategies	Evidence/Information needed
Encourage reporting violations	<ul style="list-style-type: none"> ◆ Develop informational materials on the impacts of marine pollution on fisheries and coastal habitats and common marine pollution-related violations ◆ Conduct coastal cleanup activities to raise awareness to the magnitude of the problem 	<ul style="list-style-type: none"> ◆ Office and number where violations can be reported
Stop littering, throwing, and dumping of waste matters in public places including rivers, <i>esteros</i> , and coastal areas	<ul style="list-style-type: none"> ◆ Develop solid waste management programs in all LGUs that encourage waste reduction and recycling ◆ Regulate solid waste disposal from ferries and other maritime vessels in all ports and harbors ◆ Provide facilities for solid waste disposal facilities in all ports and harbors ◆ Enact local legislation and associated laws which prohibit littering ◆ Provide for properly managed landfill sites away from shoreline areas 	<ul style="list-style-type: none"> ◆ Photographs, documentation, and other physical evidence of violations
Stop dumping and releasing of oily and solid waste in coastal waters	<ul style="list-style-type: none"> ◆ Regulate oily and solid waste disposal from maritime vessels ◆ Provide oil recycling and solid waste management facilities in all ports and harbors 	<ul style="list-style-type: none"> ◆ Photographs, documentation, and other physical evidence of violations

Various types of pollution are common in Philippine coastal waters but the following are most pervasive and cause increasing harm to coastal ecosystems and fisheries production:

- ◆ Domestic sewage with high nutrient loads, some toxic chemicals, and biological contaminants from coastal cities and municipalities, and ships, most of which go into the sea;
- ◆ Domestic solid waste from coastal cities and municipalities, and ships, much of which is dumped into shoreline areas or rivers and ends up in the sea;
- ◆ Sediments from upland and coastal erosion, construction sites, deforestation, poor agriculture practices which flow through rivers or directly into the sea;

- ♦ Mine tailings and sediments from quarrying and mining both in the coastal and upland areas, much of which flows into the sea through streams and rivers;
- ♦ Industrial organic and toxic wastes (heavy metals) which, although often treated or restricted, end up being dumped into rivers and eventually into the sea;
- ♦ Agricultural chemicals such as nitrates, phosphates, and pesticides, which mostly pollute nearby rivers, streams, and ground water, some of which go to the coastal waters;
- ♦ Aquaculture development which causes increasing acid levels in soil and water and releases nutrients from fertilizers and pesticides into nearby coastal waters; and
- ♦ Oil and fuel leaks and spills from ships.

Sea-based pollution

Oily waste and liquid waste with toxic chemicals harm fish and marine invertebrate larvae that inhabit the surface layers of the ocean. Solid waste, dumped at sea endangers many protected aquatic species that become entangled in or may ingest plastics and other non-biodegradable debris. Collaboration between port and harbor authorities, PCG, and DENR is required to regulate solid and oily waste from the maritime industry and to provide facilities for the shipping industry in order to stop the widespread dumping of waste at sea. LGUs must fully implement solid waste management programs that will stop garbage disposal in riverbeds and *esteros*, pollution that is transferred to the marine environment.

In the case of oil spills, or any other such noxious substances in Philippine seas, the PCG should be notified of the incident. When reporting such an incident, the following information should be included:

- ♦ Name of the vessel;
- ♦ Location of the spill;
- ♦ Weather conditions;
- ♦ Type of spill;
- ♦ Quantity of spill material; and
- ♦ Any other pertinent information necessary for immediate recovery and cleanup operations.

Land-based pollution

Land-based pollution incidents should be reported directly to the EMB, while waterborne pollution is always initially directed to the PCG. The first response team to arrive at the oil spill scene has the discretion to apply chemical dispersant if all other control methods have already been tried and judged to be inadequate or unfeasible. The use of dispersants must be consistent with the existing PCG Oil Pollution Control Contingency Plan procedures.



MARLITO GUIDOTE

Deputized fish wardens may assist uniformed law enforcers in gathering data. Actual searches, arrests and seizure may be carried out by non-uniformed enforcers only under certain conditions in the Rules of Court.



MARLITO GUIDOTE

Law enforcers from various agencies such as the PNP, PCG, Navy, NBI, and other agencies with law enforcement functions who have been trained together are able to develop common references and were able to establish appropriate coordinative mechanisms.



MARLITO GUIDOTE

PNP-MG and the local police must continually be oriented on the latest equipment being used in the fishing industry to enhance coastal law enforcement efforts. Picture shows local police being oriented on global positioning system and the use of sonar or fish finders.



MARLITO GUIDOTE

Orienting local enforcers on visual detection of dynamited fish and training municipal agriculturists and the police on fish examination enhances fisheries law enforcement efforts of LGUs.



MARLITO GUIDOTE

Paralegal training involving evidence handling, affidavit making, and basic court presentations are important in building law enforcement capacity at the local level. Law schools and NGOs may be tapped by LGUs to train local coastal law enforcers.

chapter 7

Emerging trends in coastal law enforcement

Emerging trends in coastal law enforcement address changes in national policy and institutional mandates as well as field approaches to improve enforcement actions. Overall, coastal law enforcement has become demilitarized with the transfer of primary responsibility from the Armed Forces of the Philippines (AFP) to the PCG and PNP. With the devolution of coastal resource management responsibility, LGUs must deliver CRM as a basic service with strong and focused coastal law enforcement program. LGUs must develop and promote coastal law enforcement as an integral part of their CRM plans and programs. Soft and hard coastal law enforcement strategies must be used together to increase and sustain the wealth of benefits derived from coastal resources. NGAs and LGUs must invest in capacity building through training and sufficient funds must be provided to procure equipment and cover operating expenses. Multisectoral coastal law enforcement support systems must be established at various levels of government to increase the effectiveness and lower the cost of coastal law enforcement.

DEMILITARIZING COASTAL LAW ENFORCEMENT

The last three decades were characterized by major changes in Philippine politics and laws. Law enforcement institutions assumed different roles as they adjusted to new laws designed to bring about an improved system of governance (Figure 30). Under the martial law years (1972-1981), uniformed law enforcement agencies such as the police and the coast guard were under the umbrella of the Ministry of National Defense together with the Navy, Army, Air Force and Constabulary. The 1973 Constitution was then the basic law of the land.

In 1987, under a new government, a new Constitution was ratified which paved the way for the separation of the police (1990) and the coast guard (1997) from the highly centralized military setup of the Department of National Defense to assume a civilian character under the Department of the Interior and Local Government (DILG) and Department of Transportation and Communications (DOTC), respectively. As a result, the organizational structures of these law enforcement agencies and Rules of Engagement had to be laid out for both organizations to comply with new mandates. Moreover, police work was much affected by landmark legislation such as the LGC (1992) and the New Police Act (1998) which further decentralized the police organization, giving LGUs operational control over their local units.

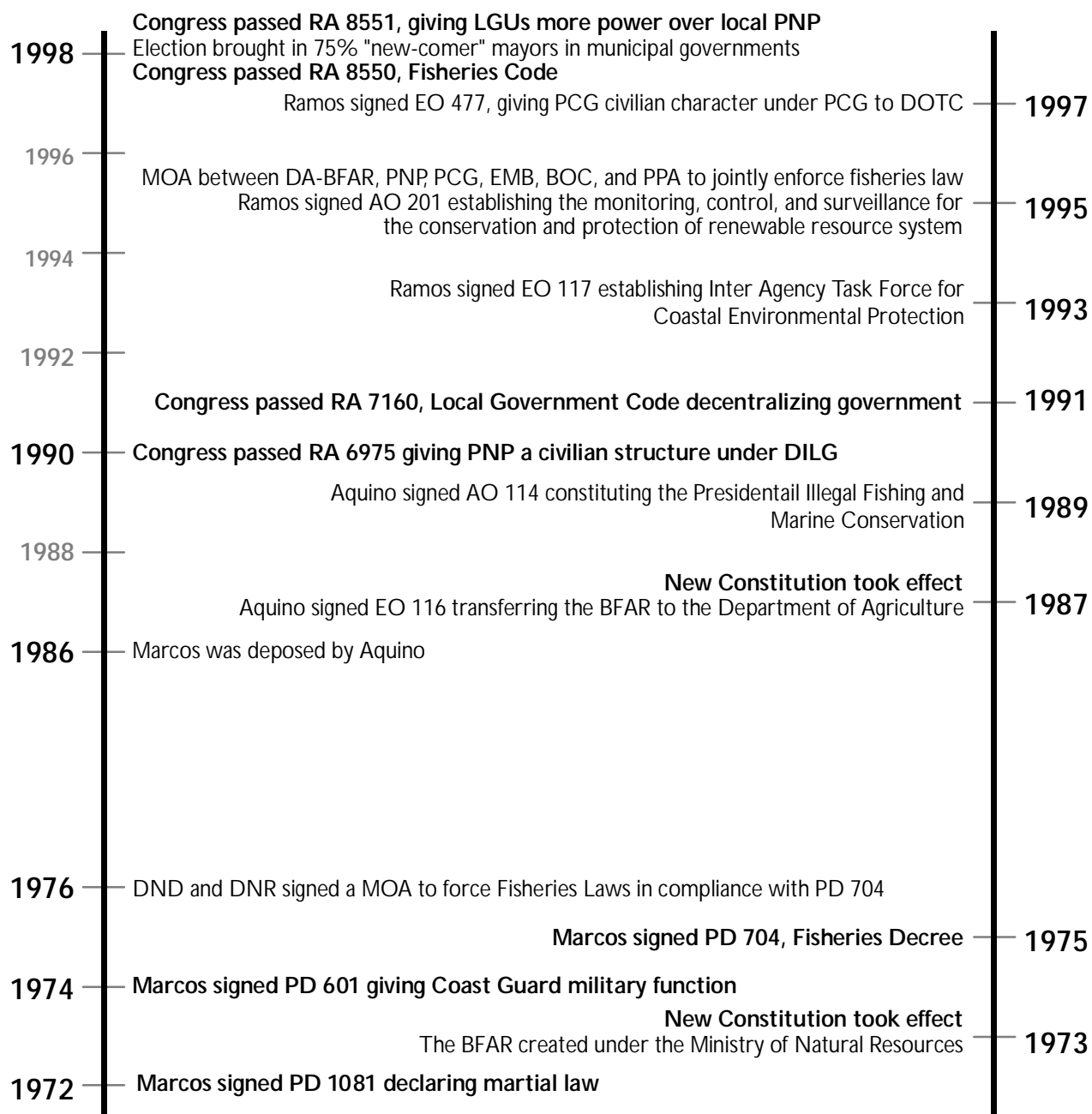


Figure 30. Key political and legal events shaping law enforcement in the Philippines.

Under the decentralized system of today, the delivery of basic services has become more efficient at the local level. Although law enforcement agencies have become more fragmented they are adapting to the decentralization and devolution process. Changes and efforts worth noting over three decades are recurring attempts on the part of the coastal law enforcement agencies to work together. The challenges that coastal law enforcement faces in the political system fall first on the NGAs for administrative support and also on the LGUs for operational support.

NATIONAL INITIATIVES IN COASTAL LAW ENFORCEMENT

In a number of instances, the Office of the President has taken direct intervention in coastal law enforcement. In 1989, President Corazon C. Aquino signed Administrative Order 114 establishing the Presidential Committee on Illegal Fishing and Marine Conservation chaired by the DA. In 1993, President Fidel V. Ramos signed Executive Order 117 establishing the Inter-Agency Task Force for Coastal Environmental Protection chaired by the Department of National Defense and Navy in the first year and the DILG and PNP in the succeeding years. In 1995, President Ramos signed AO 201 establishing the monitoring, control, and surveillance for the conservation and protection of renewable resources system where the DA was designated as implementing agency and the CABCOM-MOA as the monitoring arm.

Law enforcement agencies such as the AFP and the PNP have initiated environmental programs. The Philippine Navy implements the Adopt-a-Bay Program where gulfs and bays near naval stations were included in their areas of responsibility. The DA-BFAR, PNP, PCG, EMB, BOC (Bureau of Customs) and PPA signed a MOA in 1995 to collectively enforce fisheries law. The AFP issued a Letter of Instruction (LOI) in 1999 establishing the Environmental Defense Program (EDP) ordering all area commands to adopt measures to protect the environment. The PNP, on the other hand, issued the Operations Plan *Kalikasan* giving instructions to PNP offices nationwide to assist in environmental law enforcement. In 2000, the PNP-MG launched its own Adopt-a-Bay Program.

The Supreme Court of the Philippines initiated reforms within the court system by establishing special courts for special cases. It also established the Philippine Judicial Academy that provides continuous education to judges. Special courts may be established for environmental law violations. Environmental law subjects may be offered in the Judicial Academy in order eventually to mainstream prosecution of environmental issues in the judicial system. In 1998, some members of the judiciary together with other members of the justice system participated in a workshop that produced a set of legal documents called an arsenal for fisheries law enforcement (CRMP 1998).

LOCAL INITIATIVES IN COASTAL LAW ENFORCEMENT

Provincial government initiatives

Sixty-four or 82 percent of the country's 78 provinces can be found along the Philippines' 18,000-km shoreline. As a political unit of government consisting of clusters of municipalities or municipalities and component cities, the province's role in coastal law enforcement is to provide support and coordinate activities of LGUs within its territorial jurisdiction through the establishment of a CRM office or division in the Environment and Natural Resources Office of the province or Office of the Provincial Agriculture. Some provinces with these offices are Palawan and Romblon in Luzon; Negros Oriental, Cebu, Negros Occidental and Biliran in the Visayas; and Sarangani and Davao del Sur in Mindanao.

Some provincial governments even have enacted an Environment Code such as Bohol (1998) and Masbate (2000) which provides for a special office to handle coastal law enforcement. The Bohol Environment Management Office (BEMO) was created under the Bohol Environment Code. BEMO, in mid-2000, convened a provincial coastal law enforcement summit attended by all coastal law enforcement agencies in the province. The summit resulted in the creation of Coastal Law Enforcement Councils among the three congressional districts of the province. A fund was allocated by the provincial government for the capacity building of the coastal law enforcement councils, and it has procured one patrol boat for each of the congressional district councils.

City government initiatives

Eighty percent of the country's cities are found in the coastal areas. Philippine commerce and urbanization patterns have historical roots in the coastal areas. Coastal areas attract human settlement because of trade and livelihood opportunities.

The dynamics of coastal law enforcement in cities are quite different from that of the municipalities. Cities are confronted with the enforcement of a multitude of violators related to shoreline development, coastal habitat destruction, coastal and marine pollution, and illegal fish trade as well as other crimes prevalent in most cities such as the illegal drug trade. Coastal law enforcement approaches therefore are more complex and structured in cities. The Cebu City *Bantay Dagat* Commission is one such model. Many other cities such as Dagupan, Puerto Princesa, Lucena, Batangas, and Sablayan in Luzon; Bacolod, Dumaguete, Talisay, Bais and Ormoc in the Visayas; and Gingoog, Davao, and Samal in Mindanao have their own environmental management office or *Bantay Dagat* office to handle coastal law enforcement.

Municipal government initiatives

Fifty-four percent of Philippine municipalities are in coastal areas, most of which are rural with an income of less than 12 million pesos per year. In spite of that, municipal government units, like their city counterparts, are starting to create their own CRM offices and *Bantay Dagat* offices to address coastal law enforcement issues. Many of these offices have annual budgetary

allocations and manpower support. Records from the MCD show that in the year 2000, 15 percent of the LGUs have budgets for CRM and 7 percent have operational patrol boats. Regular investment in CRM and specifically coastal law enforcement by municipalities is vital to restoring benefits derived from coastal resources.

Other initiatives

Some sectoral initiatives have also emerged from the media, NGOs, and the Church. At the forefront of the coastal environmental protection is ABS-CBN's *Bantay Kalikasan*. *Bantay Kalikasan* is a program of the ABS-CBN Foundation that continuously airs developmental publicity on anti-illegal and destructive fishing practices. It has encouraged public reporting of coastal law violations by making hotlines available. Media organizations such as the Environmental Broadcast Circle sponsored forums and symposiums on general environmental concerns.

Numerous NGOs, academic institutions, and POs are also assisting in building capacity for coastal law enforcement. Some of these organizations and academic institutions include: Haribon Foundation; World Wildlife Fund-*Kabang Kalikasan ng Pilipinas*; International Marinelife Alliance; Environmental Legal Assistance Center; Silliman University, Legal and Environment Assistance Program; Philippine Center for Maritime Affairs; Save Davao Gulf Foundation; Philippine Coast Guard Auxillary; *Bantay Dagat*, Inc.

The Roman Catholic Church, in the 1992 Plenary Council of the Philippines, declared that all parish churches will have environment desks to attend to environmental concerns. This was reiterated in 1995 by the Provincial Council of Manila. Other denominations and sectarian groups such as the United Council of Churches of the Philippines also have environmental education programs.

BALANCING SOFT AND HARD APPROACHES FOR COASTAL LAW ENFORCEMENT

Coastal communities will derive substantial benefits from coastal law enforcement when municipalities and cities apply a balanced program of soft and hard coastal law enforcement approaches (Table 30). Both soft and hard coastal law enforcement approaches are necessary to promote voluntary compliance and maintain deterrents. CRM plans and programs of coastal LGUs must be designed to establish a rational, transparent, and equitable system of sustainable coastal resource use that fosters voluntary compliance. Municipal water use zones are established, regulatory measures for sustainable fisheries are regularly applied, and the basis for all actions is legitimized through local ordinances. Coastal law enforcement cannot operate independently of this system.

Table 30. Benefits of coastal law enforcement.

Municipality with coastal law enforcement	Municipality without coastal law enforcement
<ul style="list-style-type: none"> ♦ Initial decrease in availability of locally caught fish when illegal and highly efficient fishing methods are stopped ♦ Increase in quality and quantity of fish catch in the near term that can be sustained over the medium and long term ♦ Small-scale fishers benefit with good fish catch that can be sustained ♦ Sustainable hook and line fishing methods can be used by small-scale fisher ♦ Decrease in piracy and drug-related and firearms-related crimes ♦ Increase in health and well being of the community and huge financial benefits for the whole town accrue through fishing communities due to increased production ability of the fisheries and habitat ♦ Other CRM-related activities such as livelihood programs, marine protected areas, fisheries management strategies (closed seasons), mangrove rehabilitation have much higher success rates and are more implementable ♦ Other law enforcement-related activities are much easier to implement and people are less likely to have other coastal-related offences such as illegal fishpond expansion, mangrove cutting, and illegal developments in the foreshore areas ♦ Increase in opportunities for economic development where LGU is viewed as a sound investment marked by good governance, healthy resources, and low incidence of crime 	<ul style="list-style-type: none"> ♦ High fish catch for a limited period of time due to the use of illegal fishing methods ♦ Small and cheap “trash fish” sold in markets for food and animal feed which are products of illegal trawls and fine-mesh nets ♦ Decline and eventual collapse of fisheries over the medium and long term due to overexploitation of fish stocks and habitat destruction ♦ Selected few individuals benefit (financiers and owners of illegal fishing gears) from coastal resources by overfishing stocks and destroying habitats ♦ Sustainable fishing methods cannot be used ♦ Prevalence of other coastal-related crimes ♦ Many illegal intrusions of commercial fishing fleet in municipal waters ♦ Increase in drug-related and firearms related crimes ♦ Food security threatened ♦ Decrease in economic development opportunities where LGU is viewed as a poor investment due to eroded resource base, poor governance, corruption, and high incidence of crime

Coastal LGUs must also continuously apply hard coastal law enforcement strategies to deter violators and to promote compliance with national and local laws and regulations as a fundamental requirement for achieving economic development and social and environmental health and welfare for the whole community. Conversely, the behavior of a relatively small proportion of the community that does not comply with these laws and regulations should be associated with stealing or depriving benefits from and hurting the rest of the community. The experience of the municipality of Talibon in Northern Bohol, Central Visayas, is one of the growing number of examples of coastal law enforcement initiatives by a municipality where soft and hard coastal law enforcement approaches are used to improve local governance, the condition of coastal resources, and ultimately the health and welfare of the entire community.

Coastal law enforcement experience of the municipality of Talibon, Bohol

Illegal fishing was considered the norm in Talibon. In 1996, newly elected Mayor Juanario Item communicated his vision of a law-abiding municipality in each coastal *barangay*. During the *barangay* meetings, he told fishers that in three months time he would fully implement the coastal laws in the municipality and strongly suggested that those who were still practicing illegal fishing should stop and purchase new fishing gears while they still could.

Through a *Sangguniang Bayan* ordinance the LGU gave incentives to deputized fish wardens of 30 percent of any fines from the arrest of boats, an honorarium of 1,000 pesos per month, free rice, coffee, and other expenses, raincoats, and full uniform. The fish wardens were equipped with patrol boats, fuel, and other operating expenses. The local PNP built up their own coastal law enforcement units to stop encroachment of illegal fishers so they could share in the 30 percent incentive. Continuous IEC, workshops, and trainings are conducted throughout the year to promote voluntary compliance. The municipality budgets about 350,000 pesos for patrolling and fish wardens alone, but the benefits far outweigh the costs. The LGU has made over 1.5 million pesos from fines of illegal fishers since they began. Confiscated boats and paraphernalia are impounded and turned over to the court. As of the end of year 2000, they have won 297 cases out of 298 cases filed since Mayor Item began his campaign.

Many fishers were angry about the coastal law enforcement program of the municipality. Family and children of arrested illegal fishers flocked to the municipal hall requesting the release of their husbands, citing poverty and inability to survive without illegal fishing. The municipality stayed strong in its conviction for a law-abiding municipality and gave no concessions.

Now, there are few illegal fishers and financiers left in the municipality, less than 5 percent of the total number of fishers are illegal fishers, a decrease from 50 percent of the total number of fishers in 1996. With the decrease in illegal and destructive fishing methods, hook and line fishing has become lucrative again. Hook and line fishing can now yield 5 to 6 kilograms in a few hours at night compared with the times before when 1 kilogram of catch was considered lucky (Kagawad Jose Wayne Evardo, S.B. Talibon, pers. comm.)

The lessons learned from the coastal law enforcement experience of Talibon include:

- ♦ Communicating a common vision of a law abiding municipality from the local mayor;
- ♦ Need to have one rule for everyone and be firm in that rule;
- ♦ Need for accountability and credibility of leaders to model the way for law-abiding communities;
- ♦ Enforcement must be short, sharp, and painful;
- ♦ Sustaining constant IEC throughout the process explaining and advertising the benefits of implementing fisheries laws while at the same time developing other CRM implementation programs (such as MPAs and enterprise development which complement law enforcement);
- ♦ Initially investing heavily in coastal law enforcement so that later, benefits and economic rewards are realized;
- ♦ Committing fully and completely to the job of coastal law enforcement that initially requires a lot of effort and patrolling but later less effort once everyone knows and understands the rules and sees the benefits; and
- ♦ Having a good team of committed individuals (fish wardens) from the municipality with equipment, operational expenses, and financial incentives.

Coastal law enforcement efforts must be able to survive beyond the proponents' political term of office.

BUILDING LOCAL CAPACITY FOR COASTAL LAW ENFORCEMENT

Coastal law enforcement must be developed and strengthened at the local level. Benchmarks of coastal law enforcement capacity address human resource development, equipment needs, technical expertise, and regular investments at municipal, provincial, and regional levels (Table 31).

Table 31. Benchmarks of coastal law enforcement capacity at different levels of government.

Municipality/City	<ul style="list-style-type: none"> Coastal law enforcement units established by municipal/city governments consisting of at least two local PNP trained and equipped as coastal law enforcement officers assigned to CRM-related violations in municipal waters and along the shoreline <i>Bantay Dagat</i> and deputized fish wardens trained in each <i>barangay</i> to assist coastal law enforcement officers with basic training in intelligence gathering, patrolling, evidence handling, and other activities to assist uniformed coastal law enforcement officers Coastal law enforcement operations conducted and effective Judges and prosecutors of municipal/city trial courts knowledgeable of CRM-related violations and penalties Equipment operational including vehicle, patrol boat, radios, GPS unit (or other standard navigational tools), chart showing municipal water boundaries, bull horn, and camera Secure facility established and maintained by the Municipal Trial Court for equipment, boats, or other evidence confiscated for an offence to be tried in court Annual municipal and city budgets allocated for coastal law enforcement covering capital outlay, maintenance and operation, and personnel Inter-LGU agreements, LGU-NGA and civil society partnerships formalized to share in the responsibility and cost of coastal law enforcement At least one licensed fish examiner placed at the fish market to monitor sale of illegally caught fishes and endangered species Well trained extension groups, MAO, FARMC, and other groups, disseminating new laws and feedback to the municipality about what is happening at the <i>barangay</i> level and explain properly the benefits of good law enforcement Municipal government able to communicate effectively to the general public efforts undertaken to promote sustainable fishing and coastal environmental protection Municipal government able to monitor and evaluate gains and challenges faced in coastal law enforcement Illegal activities in coastal areas and municipal waters minimized or stopped
Province	<ul style="list-style-type: none"> Coastal law enforcement units of the PCG and PNP-MG established at the provincial level with trained and equipped coastal law enforcement officers covering province-wide operations and training and technical assistance for municipal and city coastal law enforcers. Also these groups should be prepared to patrol and to arrest particular problem groups which municipal units find hard to deal with such as large-scale commercial fishers and armed violators Licensed fish inspectors of the BFAR and PNP-MG provide expert examination and witness in the case of fisheries-related violations Attorneys from NGOs and academic institutions available to assist prepare cases and deputized as special prosecutors in fisheries and other CRM-related cases Equipment operational including vehicle, patrol boat, radios, GPS unit (or other standard navigational tools), chart showing municipal water boundaries, bull horn, and camera

(continued)

Table 31. (continued)

	<ul style="list-style-type: none"> ◆ Secure facility established and maintained by PNP-MG for equipment, boats, or other evidence confiscated for an offence to be tried in court ◆ Annual provincial government and NGA budgets allocated for coastal law enforcement covering capital outlay, maintenance and operation, and personnel ◆ Monitor and consolidate information relating to coastal law enforcement from the Municipal Coastal Database and other sources ◆ Resolve municipal boundary disputes and include regular updates on coastal law enforcement through the provincial peace and order council and consider establishment of district wide coastal law enforcement councils to encourage better coordination between LGUs on law enforcement ◆ Assist in sourcing and directing funds and resources related to coastal law enforcement to problem areas and LGUs which require counterpart and financial assistance
Region	<ul style="list-style-type: none"> ◆ Coastal law enforcement units of the PCG and PNP-MG established at the regional level with trained and equipped coastal law enforcement officers covering region-wide operations and training and technical assistance for municipal and provincial coastal law enforcement units ◆ Licensed fish inspectors of the BFAR and PNP-MG readily available to provide expert examination and witness in the case of fisheries-related violations ◆ Attorneys from NGOs and academic institutions available to assist in preparing cases and deputized as special prosecutors in fisheries and other CRM-related cases ◆ Judges and prosecutors of Regional Trial Courts knowledgeable in CRM-related violations and penalties ◆ Equipment operational including patrol boats, multiple GPS units (or other standard navigational tools), charts showing municipal water boundaries ◆ Certified laboratory services maintained and available from BFAR or academic institutions undergoing quality assurance and control measures for water and tissue chemical analyses needed as evidence in illegal fishing and pollution-related cases ◆ Secure facility established and maintained by the PNP-MG or Regional Trial Court for equipment, boats, or other evidence confiscated for an offence to be tried in court ◆ Annual NGA budgets in support of coastal law enforcement covering capital outlay, maintenance and operation, and personnel which builds on the law enforcement efforts of provincial and municipal governments ◆ Coastal law enforcement included as part of the regional development plan

The pool of uniformed law enforcement officers trained in coastal law enforcement must be substantially increased with a minimum of two full time uniformed coastal law enforcers in each coastal municipality and city. Community-based *Bantay Dagat* and fish wardens must be trained to assist uniformed coastal law enforcers in gathering intelligence, patrolling municipal waters, reporting violations, and conducting IEC. Local government officials must be fully versed in

national laws and regulations that must be implemented at the municipal, city, and provincial levels. Regional and municipal trial court judges and prosecutors must be trained to expand their understanding of the CRM-related laws and regulations and their application in specific cases that come before the court. These courts must also be capable of proper storage and inventory of evidence seized during enforcement operations. NGAs must provide clear and consistent guidance to local implementers in the application of national laws and regulations.

Capacity building programs for coastal law enforcement should begin by establishing a basic understanding of national and local CRM-related laws and regulations and appreciation for the common good for which the laws were designed to protect. Training programs are needed in the conduct of seaborne coastal law enforcement operations, which require a wide variety of skills including vessel operation and maneuvering, boarding and search procedures, fish examination, evidence handling, and basic court procedures. Licensed fish examiners trained by BFAR are needed in every province to provide expertise in fisheries violations recognized by the court. The PCG and PNP-MG maintain a trained workforce and national mobile training teams that are capable of providing training in all aspects of coastal law enforcement, in particular, seaborne operations, search, and seizure.

Funding is required to conduct effective coastal law enforcement operations. Many LGUs are now investing in equipment, maintenance and operations, and personnel to improve their coastal law enforcement operations. Annual LGU budgets should include capital outlay for vehicles, patrol boats, radios, GPS units, charts, cameras, computer, and other equipment required for coastal law enforcement. Maintenance and operation costs must be sufficient to cover fuel, equipment repair, system upgrades, reproduction, and other costs. Personnel costs include insurance and honorarium for coastal law enforcers. Secure storage facilities must be established and maintained for evidence turned over to the court.

ESTABLISHING MULTISECTORAL COASTAL LAW ENFORCEMENT SUPPORT SYSTEMS

The significant technical expertise required and high costs of coastal law enforcement highlight the need to establish multisectoral support systems for coastal law enforcement. The functions of these support systems may vary depending on the sectors organized and the level of government (Table 32). Joint coastal law enforcement operations at the municipal and city level performed by local police and *Bantay Dagat* or fish wardens are fairly common.

Table 32. Functions of multisectoral coastal law enforcement support systems at different levels of government.

Municipal	<ul style="list-style-type: none"> ◆ Conduct joint coastal law enforcement operations by uniformed coastal law enforcement officers with assistance from <i>Bantay Dagat</i>, deputized fish wardens, municipal officials, mayor, vice mayor, FARMC members, and other agencies ◆ Make suggestions on policy and new laws to FARMC and legislative branch which may aid the law enforcers and their job ◆ Provide intelligence to provincial, regional, and national coastal law enforcement units ◆ Assist in the conduct of provincial and regional coastal law enforcement operations
Provincial	<ul style="list-style-type: none"> ◆ Conduct joint coastal law enforcement operations by PCG, PNP-MG, and BFAR ◆ Provide legal assistance from NGOs to local government in prosecuting cases in municipal trial court ◆ Assist in the conduct of municipal and regional coastal law enforcement operations
Regional	<ul style="list-style-type: none"> ◆ Conduct multi-agency coastal law enforcement operations by PCG, PNP, PNP-MG, BFAR, and DENR ◆ Conduct orientation sessions for municipal and provincial government s by DILG on coastal law enforcement ◆ Respond to and resolve local political or corruption-related coastal law enforcement issues at municipal and provincial levels ◆ Assist in the conduct of municipal and provincial coastal law enforcement operations
National	<ul style="list-style-type: none"> ◆ Provide training and technical assistance to regional, provincial, and municipal coastal law enforcement units ◆ Provide funds for priority coastal law enforcement needs of regional, provincial, and municipal units including grants to NGOs for legal assistance and funds for equipment

Cebu City *Bantay Dagat* Commission

Established through a city ordinance enacted in 1994, the Commission members are from the LGU, PCG, PNP, Provincial Prosecutor, and Bureau of Customs. Personnel coming from the Cebu City PNP, PNP-MG, and PCG are assigned and funded full time to the Commission with operating assets for the conduct of patrols or other coastal law enforcement operations. The Commission holds office in one of the major marketplaces in Cebu City but maintains detachments in strategic places within the City. CCBDC assists other municipalities in establishing *Bantay Dagat* groups at the request of local chief executives. Joint seaborne operations between city operatives and other municipalities have also been undertaken through a MOA. Market denial operations, harbor blockades, road checkpoints and random, patrols in wet market conducted with the regional office of BFAR had been the centerpiece of CCBDC since Cebu is the transshipment point of illegally caught fish. Success of CCBDC is largely because of the strong support of local elective leaders translated through annual budgetary allotment by the city government and technical support by BFAR. The commission meets regularly to assess and monitor its activities.

Provincial *Bantay Dagat* Coordinating Council-Negros Occidental

Established through a Memorandum of Agreement signed in 1999, the Provincial *Bantay Dagat* Coordinating Council (PBDCC) of Negros Occidental is composed of members from the provincial government, DOJ, PPA, PNP, PNP-MG, and PCG. The council objectives are to provide coordinating mechanisms and standard operating procedures for coastal law enforcement operations. It also assists coastal LGUs in deputizing fish wardens through BFAR and creating local *Bantay Dagat* groups. Under a Fisheries Law Agreement, PBDCC operatives may operate in all municipal waters of the province. The success factors behind PBDCC are the strong political and financial support of the provincial government and technical assistance from regional offices of NGAs such as BFAR. Assignment of full-time staff financed by the province through the Office of the Provincial Agriculturist keeps coordinative mechanisms in place. A one-time equipment support, patrol boat, from the Embassy of Japan enhanced its seaborne capabilities. An annual get-together called "*Bantay Dagat* Week" had been instituted for continuous IEC and capacity building and monitoring of PBDCC activities. PBDCC is operationally under the Office of the Provincial Agriculturist with the Vice Governor of the Province as the Chairman.

The conduct of joint coastal law enforcement operations at provincial or regional levels is more of an exception; however, increasing collaboration between PNP, PCG, and BFAR in the field is beginning to yield positive results. The need for multisectoral collaboration in coastal law enforcement has inspired a number of initiatives. Some of the features of these initiatives include:

- ♦ Mechanisms to formalize the relationship through an ordinance or MOA;
- ♦ Multisectoral composition of the body to include LGU, national government, and NGO;
- ♦ Inclusion of members of the DOJ to facilitate filing and prosecuting cases;
- ♦ Resource and cost sharing opportunities enhanced; and
- ♦ Venue to review, reconcile, and revise administrative procedures and effectiveness of personnel to harmonize missions and operations of coordinating agencies.

Sustaining these initiatives remains a common challenge. Leadership is needed to constantly provide direction. A secretariat is needed, preferably managed by an NGO, that is capable of coordinating the activities of various agencies involved in the collaboration. All parties must commit to collaboration and sharing information.

Congressional District Coastal Law Enforcement Councils-Bohol

Established after a series of province-wide consultations that culminated in a Provincial Coastal Law Enforcement Summit, Coastal Law Enforcement Councils were created by Congressional District through a Memorandum of Understanding signed in 2000 by all LGUs, agencies, and sectors which had a stake in coastal law enforcement in the province. The members of the three Congressional Councils include representatives of the Mayors, Vice Mayors, *Sangguniang Bayan* chairperson on fisheries, FARMC chairperson, fish warden head, civil society head, from each of the districts with other members composed of the provincial Bohol Environmental Management Office, PNP, and PCG, DENR, BFAR, PNP-MG, DILG. An advisors group composed of the Governor, Vice Governor, Congressmen of each district, Judges, prosecutors, *Sangguniang Panlalawigan*, CRMP, the media, and PIA. The provincial government has provided initial support in the purchase of three patrol boats, one for each Council.

The Councils now act as the main planning, monitoring, and implementing arm for coastal law enforcement across the three districts of Bohol. The main objectives of the Councils are to:

- ♦ Appropriate and manage finances for the maintenance of patrol boats;
- ♦ Coordinate and decide upon the composition of the district-wide composite coastal law enforcement teams;
- ♦ Develop a district-wide (and provincial-wide) communication system for coastal law enforcement;
- ♦ Coordinate with the boundary municipalities and the neighboring District-wide Law Enforcement Councils to ensure uniform policies and activities;
- ♦ Inform and brief regularly the Provincial Government on their activities as well as provide regular information and communication regarding the same;
- ♦ Advise towns on suggested standardization and recommendations for policy changes through the MFARMC and Local Chief Executive of each town in each district;
- ♦ Prepare a training and capability building programs for each district to facilitate better coastal law enforcement practices and trained staff;
- ♦ Monitor, evaluate, and plan on a year to year basis the needed activities for each district council to help move towards the minimization of illegal fishing activities within the province.

Coastal Law Enforcement Alliance in Region 7

Established through a Memorandum of Agreement signed in 2000, the Coastal Law Enforcement Alliance for Region 7 (CLEAR7) was established in response to the growing number of coastal law enforcement violations and the expressed need for collaboration between NGAs, LGUs, and NGOs in coastal law enforcement. CLEAR7 members are composed of PCG, PNP, DILG, BFAR, DENR, DOJ, NBI, Regional Prosecutors Office, LMP provincial chapters, Environmental Legal Assistance Center (ELAC), and International Marinelife Alliance (IMA). CLEAR7's objective is to develop, pilot, and package an integrated coastal law enforcement strategy in Region 7 building on the existing legal mandates and programs and coordinating in both administrative and operational measures to improve coastal law enforcement. CLEAR7 is organized into seven components lead by different members of the Alliance:

1. Planning and interagency coordination to establish and maintain linkages and sharing of information between and among NGAs, LGUs, NGOs, and the business sector;
2. Promotion of sustainable fishing through the development of an integrated information and communication strategy;
3. Capacity building through the conduct of orientation sessions and training programs for coastal law enforcers and community-based groups in the region;
4. Field operations for planning and employing joint or coordinated land-based and sea-based patrolling in municipal waters and other coastal law enforcement operational tactics;
5. Local governance support systems for coastal law enforcement to promote action on the part of local government officials in the conduct of public fora on coastal law enforcement, establishment of *Bantay Dagat* and FARMCs, and to increase LGU budgets for coastal law enforcement;
6. Monitoring and evaluation of the activities of the program; and
7. Documentation and replication for spreading lessons learned to other regions.

CLEAR7 has responded to complaints of marginal fishers regarding the intrusion of commercial fishing vessels; trained local PNP, *Bantay Dagat*, and deputized fish wardens in coastal law enforcement and boarding procedures; conducted joint operations in seaborne patrols and market denial; developed administrative procedures for the reporting of commercial fishing violations by PNP to BFAR to stop issuing licenses to repeat offenders; and implemented a national and regional multi-media communication campaign on sustainable fishing. CLEAR7 works closely with the Bohol Congressional District Coastal Law Enforcement Councils in areas of training, planning, and coordinating coastal law enforcement activities.

Coastal law enforcement is a lifelong endeavor that must be strengthened and sustained at the local level with support from the national level. In the absence of coastal law enforcement, only a few will benefit from illegal activities over the short term. With effective coastal law enforcement, the entire community, town and society at large will benefit economically, socially, and environmentally.

For truly successful CRM in any town, LGUs must have a strong and focused law enforcement program. LGUs must develop and promote coastal law enforcement as an integral part of their CRM plans and programs. Soft and hard coastal law enforcement strategies must be used together to increase and sustain the wealth of benefits derived from coastal resources. NGAs and LGUs must invest in capacity building through training and sufficient funds must be provided equipment, and operating expenses. Multisectoral coastal law enforcement support systems must be established at various levels of government to increase the effectiveness and lower the cost of coastal law enforcement.



NEGROS ORIENTAL PIO

"Bantay Dagat Week" proclaimed in the Province of Negros Occidental provides an opportunity for law enforcers of coastal towns to meet, update themselves, and exchange experiences.



MARLITO GUIDOTE

United States Coast Guard International Training Division together with Philippine coastal law enforcement counterparts conduct training in boarding procedures and patrol planning in Cebu, April, 2000.



MARLITO GUIDOTE

Coastal Law Enforcement Alliance in Region 7 (CLEAR7) Memorandum of Understanding signed in Cebu in June 2000.



CRMP

Conference of Coastal Municipalities, the first of its kind in Asia and the second in the world, provided a forum where coastal management concerns, such as coastal law enforcement, were discussed on a national scale.

ANNEX 1

A. Legal provisions and penalties for common fisheries-related violations

Violation	Legal provisions	Penalties
Fishing in restricted/regulated areas		
Fishing in overfished area and during closed season	RA 8550 Sec 94	Imprisonment of 6 months and 1 day to 6 years and/or fine of PhP 6,000 and forfeiture of the catch and cancellation of fishing permit or license
Fishing in fishery reserves, refuge and sanctuaries	RA 8550 Sec 96	Imprisonment of 2 years to 6 years and/or fine of PhP 2,000 to PhP 20,000 and forfeiture of the catch and the cancellation of fishing permit or license
Violation of catch ceilings	RA 8550 Sec 101	Imprisonment of 6 months and 1 day to 6 years and/or fine of PhP 50,000 and forfeiture of the catch, and fishing equipment used and revocation of license
Use of active gear in municipal waters and bays and other fishery management areas	RA 8550 Sec 90	The boat captain and master fisherman of the vessels who participated in the violation shall suffer the penalty of imprisonment from 2 years to 6 years; The owner/operator of the vessel shall be fined from PhP 2,000 to PhP 20,000 upon the discretion of the court; the catch shall be confiscated and forfeited
Fishing by use of explosives		
Illegal possession of explosives (<i>Dynamites and other chemical compounds which contain combustible elements</i>)	RA 8550 Sec 88	Imprisonment ranging from 6 months to 2 years; forfeiture of explosives, as well as the fishing vessels, fishing equipment, and catch
Use (<i>actual</i>) of explosives for illegal fishing	RA 8550 Sec 88	Imprisonment ranging from 5 to 10 years without prejudice to the filing of separate criminal cases when the use results in physical injury or loss of human life; forfeiture of explosives, as well as the fishing vessels, fishing equipment, and catch
Unlawful manufacture, sale, acquisition, disposition, or possession of explosives	RA 8550 Sec 3	<i>Prison mayor</i> in its maximum period to <i>reclusion temporal</i> and a fine of not less than PhP 50,000

Violation	Legal provisions	Penalties
Fishing by use of noxious or poisonous substances		
Illegal possession of noxious or poisonous substances (to include sodium cyanide among others)	RA 8550 Sec 88	Imprisonment ranging from 6 months to 2 years; forfeiture of fishing vessels, noxious or poisonous substances, and catch
Use (actual) of noxious or poisonous substances (to include sodium cyanide among others)	(RA 8550 Sec 88)	Imprisonment ranging from 5 to 10 years without prejudice to the filing of separate criminal cases when the use results in physical injury or loss of human life; forfeiture of noxious substances, as well as the fishing vessels, fishing equipment, and catch
Fishing by use of electricity		
Illegal possession of equipment or device for electrofishing	RA 8550 Sec 88	Imprisonment ranging from 6 months to 2 years; forfeiture of fishing vessels, electrofishing equipment, and catch
Use (actual) of equipment or device for electrofishing	RA 8550 Sec 88	Imprisonment ranging from 5 to 10 years without prejudice to the filing of separate criminal cases when the use results in physical injury or loss of human life; forfeiture of noxious substances, as well as the fishing vessels, fishing equipment, and catch
Marketing and buying of illegally caught fish		
Dealing in, selling, or in any manner disposing of, for profit illegally caught/gathered fishes (to include fish caught by explosives, noxious or poisonous substances, and electrofishing)	RA 8550 Sec 88	Imprisonment ranging from 6 months to 2 years; forfeiture of fishing vessels, fishing equipment, and catch; forfeiture of explosives, noxious or poisonous substance, or electrofishing equipment or device
Selling, distributing, and buying of fish caught through the use of explosives and chemicals in marketing areas	PD 856 Sec 32(g)(3)	To be determined by the Secretary of Health Local ordinances
Fishing by use of fine mesh nets		
Fishing by use of fine-mesh nets in municipal fisheries (Provided, that the prohibition on the use of fine-mesh net shall not apply to the gathering of fry, glass eels, elvers, tabios and alamang and such species which by their nature are small but already mature)	RA 8550 Sec 189	Fine from PhP 2,000 to PhP 20,000 or imprisonment from 6 months to 2 years, or both such fine and imprisonment at the discretion of the court
Fishing by use of fine-mesh nets in commercial fisheries (Provided, that the prohibition on the use of fine-mesh net shall not apply to the	PD 8550 Sec 189	Fine from PhP 2,000 to PhP 20,000 or imprisonment from 6 months to 2 years, or both such fine and imprisonment at the discretion of the court; Provided that if the offense is

Violation	Legal provisions	Penalties
<i>gathering of fry, glass eels, elvers, tabios and alamang and such species which by their nature are small but already mature)</i>		committed by a commercial fishing vessel, the boat captain and the master fisherman shall also be subjected to the penalties provided; Provided further that the owner/operator of the commercial fishing vessel who violates this provision shall be subjected to the same penalties; Provided finally, that the BFAR is hereby empowered to impose upon the offender an administrative fine and or cancel his permit or license or both

Fishing by use of superlights

Unauthorized use of superlights in municipal waters	RA 8550 Sec 93 FAO 204 s2000	Imprisonment from 6 months to 2 years or a fine of PhP 5,000 <i>per</i> superlight, or both such fine and imprisonment at the discretion of the courts; Forfeiture of superlight, fishing gear, and vessel
Unauthorized use of superlights in commercial fisheries <i>(using superlights that exceed the prescribed wattage for specific types of commercial fishing)</i>	RA 8550 Sec 93 FAO 204 s2000	Imprisonment from 6 months to 2 years or a fine of PhP 5,000 <i>per</i> superlight, or both such fine and imprisonment at the discretion of the courts; Forfeiture of superlight, fishing gear, and vessel

Unlawful activities associated with commercial fishing

Illegal commercial fishing in the municipal waters <i>(provided there is an ordinance allowing small and medium-scale commercial fishing vessels to operate within 10.1 to 15 km area from the shoreline of the municipal waters)</i>	RA 8550 Sec 18 RA 8550 Sec 86 FAO 198 s2000 FAO 201 s2000	Any commercial fishing boat captain or the three (3) highest officers of the boat who commit any of the prohibited acts upon conviction shall be punished by a fine equivalent to the value of catch or ten thousand pesos (PhP 10,000) whichever is higher, and imprisonment of six (6) months, confiscation of catch and fishing gear, and automatic revocation of license
Engaging in commercial fishing activity in municipal waters without being registered in the municipal registry of fisherfolk	RA 8550 Sec 86	Local ordinance Confiscation of catch and a fine of PhP 5,000
Employment of unlicensed fisherfolk or fishworker or crew in commercial fishing	DAO No.3 s1998, Rule 104.1	Fine of PhP 500 each for the owner/operator of the commercial fishing vessel or fishworker for every month that the same has been employed and/or PhP 1,000 for every month for each unlicensed crew member who has been employed
Employment of minors in commercial fishing	RA 7658	To be determined by the court Other administrative charges violative of the Labor Code of the Philippines (PD 603, Art 107 as amended by PD 1179 and Art 139 of the Labor Code as amended)

Violation	Legal provisions	Penalties
Commercial fishing in areas declared as overexploited	RA 8550 Sec 86	Any commercial fishing boat captain or the three (3) highest officers of the boat who commit any of the prohibited acts upon conviction shall be punished by a fine equivalent to the value of catch or PhP 10,000 whichever is higher, and imprisonment of 6 months, confiscation of catch and fishing gear, and automatic revocation of license
Failure to comply with minimum safety standards	RA 8550 Sec 103a	License to operate the commercial fishing vessel shall be suspended until the safety standard has been complied with

Fishing without the necessary licenses, permits and other documentary requirements

Fishing without permit or registration papers from the Bureau of Fisheries	RA 8550 Sec 86	Fine equivalent to the value of catch or PhP 10,000 whichever is higher, and imprisonment of 6 months, confiscation of catch and fishing gear, and automatic revocation of license
Operation/navigation of a vessel without Certificate of Vessel Registry (CVR)	Marina MC 120	Fine ranging from PhP 400 to PhP 2,000 depending on tonnage
Operation/navigation of a vessel without Certification of Number (CN)	Marina MC 120	Fine ranging from PhP 100 to PhP 16,000 depending on tonnage
Operation/navigation of a vessel without Certificate of Ownership (CO)	Marina MC 120	Fine of PhP 500 to PhP 16,000
Non-compliance with the required registration of engine and deck logbook/roll book and other books	Marina MC 120	Fine of PhP 10,000 per book
Failure to keep/maintain record of changes for vessels issued Certificate of Number	Marina MC 120	Fine of PhP 100 each for changes in homeport, name of vessel, name of owner, trading status, rig type, service type, and engine
Operation/navigation of a vessel with expired Certificate of Inspection/ Interim Certificate of Inspection	Marina MC 120	Fine ranging from PhP 200 to PhP 1,500 depending on the tonnage
Operation/navigation of a vessel without the Certificate of Inspection/ Interim Certificate of Inspection	Marina MC 120	Fine ranging from PhP 200 to PhP 3,000 depending on the tonnage
Operating with expired permits/licenses	Marina MC 120	For Expired Special Permit of Unlicensed Officer, a fine of PhP 200 for the 1 st offense and PhP 400 for the 2 nd offense For Expired Motorboat Operator's License, a fine of PhP 200 for the 1 st offense and PhP 400 for the 2 nd offense Without Special Permit of Unlicensed Officer, a fine of PhP 800 for the 1 st offense and PhP 1,600 for the 2 nd offense

Violation	Legal provisions	Penalties
Operating without permits/ licenses	Marina MC 120	Without Motorboat Operator's License, a fine of PhP 800 for the 1 st offense and PhP 1,600 for the 2 nd offense
No Emergency Position Indicator Radio Beacon (EPIRB) <i>(for commercial fishing vessels for hire under 100 GT carrying 11 or fewer passengers and all vessels continuously navigating for 12 hours)</i>	RA 5173 PCG MC 07-94	Fine of PhP 2,000 for the first offense and a fine of PhP 5,000 on the second offense
Illegal carriage of dangerous goods in maritime vessels <i>(such as explosives and poisonous/toxic substances, among others, without the necessary permits/licenses)</i>	RA 5173 PCG MC 02-96	For shipowners, charterers, operators, and or agents willfully/deliberately authorizing the loading/transfer of dangerous cargo on board their vessels without complying with the safety requirements, a fine ranging from PhP 3,000 to PhP 10,000 depending on the value of the cargo and number of times the offense is committed For shipowners, charterers, operators, and or agents carrying dangerous cargo without appropriate permit, a fine of PhP 5,000 to PhP 20,000 depending on the value of the cargo and the number of times the offense is committed
Other commercial fishery associated offenses		
Poaching in Philippine waters	RA 8550 Sec 87	Fine of US\$100,000 in addition to the confiscation of its catch, fishing equipment, and fishing vessel
Obstruction to fishery law enforcement officer	RA 8550 Sec 105	Fine of PhP 10,000. In addition, the registration, permit and/or license of the vessel including the license of the master fisherman shall be cancelled
Fishing without GPS <i>(for 756 T and above)</i>	DOTC DO 2001-46	Fine of PhP5,000 for the 1 st offense plus warning, PhP10,000 plus suspension of CPC/PA/SP for 2 nd offense and PhP25,000 plus cancellation or revocation of CPC/PA/SP for the 3 rd offense

ANNEX 1

B. Legal provisions and penalties for common protected aquatic species-related violations

Violation	Legal provisions	Penalties
Capture of threatened and endangered species		
Fishing or taking of rare, threatened, or endangered species (Listed in the CITES and as determined by the Department of Agriculture)	RA 8550 Sec 97 FAO 208 s2001	Imprisonment of 12 to 20 years and/or fine of PhP 120,000; Forfeiture of catch and cancellation of fishing permit
Catching, taking, selling, purchasing, possessing, and transporting dolphins, whales, and porpoises	RA 8550 Sec 97 FAO 185; 185-1 FAO 208 s2001	Imprisonment of 12 to 20 years and/or fine of PhP 120,000; forfeiture of catch and cancellation of fishing permit
Hunting, killing, wounding, or taking away and/or disposing of <i>dugong</i> or sea cow, dead or alive, its meat or any of its by-product except for scientific and educational	DAO 55 s1991	Imprisonment of 6 months to 4 years and fine of PhP 500 to PhP 5,000 or both
Capture of regulated species		
Illegal collecting, gathering, utilizing, possessing, transporting, disposing of marine turtles, turtle eggs, or any of its products (Region 9 and 12 are exempted)	MNR AO No. 12	Imprisonment of not more than 6 years or a fine of PhP 600 or both
Unauthorized gathering, catching, taking, or removing marine tropical or aquarium fishes	FAO 124 as amended by FAO 148	Imprisonment of 8 to 10 years
Unauthorized gathering and marketing shell fishes (shell fish which is sexually mature or below the minimum size or above the maximum quantities prescribed for the particular species)	RA 8550 Sec 103	Imprisonment of 1 month and 1 day to 6 months; fine of PhP 2,000 to PhP 10,000; impoundment of vessel; cancellation of fishing permit/license
Unauthorized taking of marine Mollusca or valve in Philippine waters (to include violation of the conditions set in the issuance of permit)	FAO 11 s 1935	Imprisonment of not more than 1 month; fine of not more than PhP 100 or both

Violation	Legal provisions	Penalties
Taking, possessing, selling, or transferring of undersized shells	FAO 11 s1935	Fine of PhP 5 for each valve of any shell which are subject of illegal act and such shells shall be confiscated
Unauthorized gathering and/or culturing or exporting of shelled mollusks (to include no permit or violation of condition of permits issued by BFAR) (prohibition of wild <i>Tridacna derasa</i> , <i>Tridacna gigas</i> , and <i>Hippopus porcellanus</i>)	FAO 168 s 1990	Imprisonment of 6 months to 4 years; fine of not less than PhP 500 nor more than PhP 5,000 or both
Unauthorized gathering, taking, and collection of <i>Kapis</i> (to include no invoice, violation of the conditions of the permit, and other regulations of BFAR) (of species <i>Placuna placenta</i>)	FAO 157 s 1986	Imprisonment of 6 months to 4 years; fine of not less than PhP 500 but not more than PhP 5,000 or both
Unauthorized gathering and farming of seaweeds	FAO 108 as amended by FAO 146	Imprisonment of 6 months to 4 years; fine of PhP 500 to PhP 5,000 or both
Unauthorized exportation of live mud crabs or <i>alimango</i> (<i>Scylla serrata</i>) (to include no permit or violation of the conditions of the permit)	FAO 162 s 1986	Imprisonment of 6 months to 4 years; fine of PhP 500 to PhP 5,000 or both
Unlawful capture of <i>sabalo</i> and other breeders/spawners	RA 8550 Sec 98	Imprisonment of 6 months and 1 day to 8 years and/or a fine of PhP 80,000 and forfeiture of the catch, and fishing equipment used and revocation of license
Importing and exporting of regulated and prohibited species		
Exploitation and exporting corals	RA 8550 Sec 91 FAO 202 s2000	Imprisonment from 6 months to 2 years and a fine from PhP 2,000 to PhP 20,000 or both; Forfeiture and proper disposition of the subject corals and the vessels used
Taking, catching, selling, purchasing, transporting, and exporting of whale sharks and manta rays	FAO 193	Imprisonment of 6 months to 4 years or a fine of PhP 500 to PhP 5,000 or both; administrative fine imposed by the BFAR Director of not more than PhP 5,000 and cancellation of permit including confiscation of whale shark and/or manta ray
Exportation of breeders, spawners, eggs, or fry	RA 8550 Sec 99	Imprisonment of 8 years, confiscation of the same or a fine equivalent to double the value of the same, and revocation of the fishing and/or export license/permit

Violation	Legal provisions	Penalties
Importation of fish or fishery species	RA 8550 Sec 100	Eight years imprisonment, a fine of PhP 80,000 and destruction of live fishery species or forfeiture of non-live fishery species in favor of the Department (BFAR) for its proper disposition
Exportation of fresh, chilled, and frozen fish and fishery/aquatic products	FAO 126	Violation of this order shall hold the offender liable to the penalty of imprisonment for 8 years, a fine of PhP 80,000, and the forfeiture of the subject fishery product for proper disposition by BFAR; Provided, that the violator shall also be banned from being a member or stockholder of companies currently engaged in fisheries or those to be created in the future
Importation and/or possession of live piranha	FAO 126	Imprisonment of 6 months to 4 years; fine of PhP 500 to PhP 5,000 or both
Illegal importation of live shrimps and prawns of all stages	FAO 189 s1993	Imprisonment of 6 months to 9 years; fine of PhP 500 to PhP 5,000 or both

ANNEX 1

C. Legal provisions and penalties for common coastal habitat-related violations

Violation	Legal provisions	Penalties
Destruction of forestry habitat		
Illegal conversion of mangroves	RA 8550 Sec 94	Imprisonment from 6 years and 1 day to 12 years and/or a fine of PhP80,000; Provided, that if the area requires rehabilitation or restoration as determined by the court, the offender should also be required to restore or compensate for the restoration of the damage
Unauthorized cutting, gathering, and/or collecting timber or other forest products without legal documents	PD 705 Sec 68	Qualified theft as defined as punished under Art. 309 and 310; Confiscation of timber or forest products cut, gathered, collected, or removed and the machinery, equipment, implements, and tools used therein; Cancellation of license agreement, lease, or permit and perpetual disqualification from acquiring any such privilege without prejudice to further civil action
Possession of timber or other forest products without legal documents <i>(as required under existing forest laws and regulations)</i>	PD 705, Sec 79	Suspension of license or permit for a period of not less than 2 years
Unauthorized selling of wood or wood products <i>(without compliance with grading rules established by the Government)</i>	PD 705, Sec 79	Suspension of license or permit for a period of not less than 2 years
Illegal sea transport of forestry and wildlife products, flora and fauna <i>(lack of DENR clearance)</i>	PD 474 Sec 2(b) and 6(b) MOA between DOTC, DENR, DA, DILG on Feb. 3, 1999 Marina MC 147	For the shipowner/operator PhP 5,000 for the 1 st violation every departure where the shipment of cargoes is not covered by appropriate clearance; PhP 15,000 for the 2 nd violation for every departure where shipment of cargoes is not covered by appropriate clearance; PhP 50,000 for the 3 rd violation for every departure where shipment of cargoes is not covered by appropriate clearance

Violation	Legal provisions	Penalties
Unauthorized occupation or destruction of forestlands or possession and use of and/or damage to forestland and forest stands	PD 705, Sec 69	Fine in the amount of not less than PhP 500.00 nor more than PhP 20,000 and imprisonment for not less than 6 months nor more than 2 years for each offense and liability to pay 10 times the rental fee
Destruction of marine habitat		
Illegal gathering, selling, or exporting white sand, and any other substances which make up any marine habitat	RA 8550 Sec. 92 DAO No.3 s1998 Rule 92.3	Imprisonment of 2 to 10 years and a fine of not less than PhP 100,000 to PhP 500,000 or both such fine and imprisonment at the discretion of the court; confiscation of the substance taken from its marine habitat
Illegal sea transport of mineral and mineral products/ sand and gravel cargo (<i>lack of permit issued by Governor or City Mayor</i>)	Local ordinance PD 474 Sec 2(b) and 6(b) MOA between DOTC, DENR, DA,DILG on Feb. 3, 1999 Marina MC 147	Local ordinance For the shipowner/operator PhP 5,000 for the 1 st violation every departure where the shipment of cargoes is not covered by appropriate clearance; PhP 15,000 for the 2 nd violation for every departure where shipment of cargoes is not covered by appropriate clearance; PhP 50,000 for the 3 rd violation for every departure where shipment or cargoes is not covered by appropriate clearance
Use of <i>muro-ami</i> , other methods, and gear destructive to coral reefs and other marine habitat	RA 8550 Sec. 92	Imprisonment from 2 to 10 years or a fine of PhP 100,000 to PhP 500,000 or both such fine and imprisonment at the discretion of the court to the operator, boat captain, master fisherman and organizer or recruiter of fishworkers; confiscation of catch and gear

ANNEX 1

D. Legal provisions and penalties for common foreshore and shoreline development-related violations

Violation	Legal provisions	Penalties
Unauthorized use of foreshore and shoreline		
Unauthorized use or construction of structures in foreshore areas (<i>lack of foreshore lease</i>)	PD 1067, Art. 91(b) (3)	Fine exceeding PhP 3,000 but not more than PhP 6,000 or imprisonment exceeding 3 years but not more than 6 years, or both such fine and imprisonment at the discretion of the court
Unauthorized use or construction of structures within shoreline buffer zones	PD 1067, Art. 91(b) (3)	Fine exceeding PhP 3,000 but not more than PhP 6,000 or imprisonment exceeding 3 years but not more than 6 years, or both such fine and imprisonment in the discretion of the court
Unauthorized construction/operation of fish corals/traps, fish pens and fish cages	RA 8550 Sec. 103e	Imprisonment of 1 month and 1 day to 6 months and/or a fine of PhP 2,000 to PhP 10,000 upon discretion of the court and other administrative penalties imposed by BFAR
Violation of terms and conditions of foreshore lease agreement (FLA)	PD 1067	Failure or refusal to comply with this condition shall be valid ground for rejection of application or revocation of the lease award or contract; termination of agreement and forfeiture of all improvements in favor of the government
Unauthorized operations		
Failure to conduct a yearly report on all fishponds, fish pens, and fish cages	RA 8550 Sec 103b	Cancellation of FLA: Provided, that if the offender be the owner of the fishpond, fish pen, or fish cage, he shall be subjected to the following penalties: 1 st offense is a fine of PhP 500 per unreported hectare and subsequent offenses is a fine of PhP 1,000 per unreported hectare

Violation	Legal provisions	Penalties
Unauthorized use of foreshore and shoreline		
Illegal project operation (<i>operating any environmentally critical project [ECP] or a project in an environmentally critical area [ECA] without an environmental compliance certificate [ECC] from DENR</i>)	PD 1586 Sec 4 PD 1586 Sec 9; DAO 96-37 s1996	Fine of PhP50,000
Violation of terms and conditions of environmental compliance certificate	PD 1586 Sec 9	Fine of PhP50,000
Obstruction of navigation or flow and ebb of tide	RA 8550 Sec 103d	Imprisonment of 1 month and 1 day to 6 months and/or a fine of PhP 2,000 to PhP 10,000, upon discretion of the court and other administrative penalties imposed by BFAR
Unauthorized reclamation in coastal zone and foreshore areas (<i>lack of ECC</i>)	PD 1586 Sec 4 and Sec 9	Fine of PhP50,000

ANNEX 1

E. Legal provisions and penalties for common coastal and marine pollution-related violations

Violation	Legal provisions	Penalties
Land-based pollution		
Aquatic pollution (<i>discharging and placing in Philippine waters substances or materials deleterious to fishery aquatic life</i>)	RA 8550 Sec. 102	Imprisonment of 6 years and 1 day to 12 years and/or a fine of PhP 80,000; an additional fine of PhP 8,000 per day until such violation ceases and the fines are paid
Littering or throwing garbage, filth, or other waste matter in public places (<i>to include roads, sidewalks, canals, esteros or parks, and establishments, or causing or permitting the same is prohibited</i>)	RA 9003 Sec 48 (1)	Render community service for not less than 1 day to not more than 15 days to an LGU where such act is committed or a fine of not less than PhP 300 but not more than PhP 1,000 or both
Unauthorized construction, installation, modification of operation of any sewage works or any extension or addition thereto	PD 984 Sec 8 (1)	Fine of not more than PhP 1,000 for each day during which the violation continues, or by imprisonment from 2 years to 6 years or may be required or enjoined or enjoyed from continuing such violation
Unauthorized increase in volume or strength of any wastes in excess of the permissive discharge specified under any existing permit	PD 984 Sec 8 (2)	
Unauthorized construction, installation or operation of any industrial or commercial establishments or any extension or modification thereof addition thereto, the operation of which would increase discharge of waste directly into the water, air and/or land resources of the Philippines or would otherwise alter their physical, chemical, or biological properties in any manner not already lawfully authorized	PD 984 Sec 8 (3)	

Violation	Legal provisions	Penalties
Illegal discharge from the operation of sewerage works and sewage treatment plants	PD 856 Sec 74 (b)	Imprisonment for a period not exceeding 6 months or a fine not exceeding PhP 1,000 or both depending upon the discretion of the court
Discharge of effluent from septic tanks exceeding quality standards set by the National Water and Air Pollution Control Commission	PD 856 Sec 76	
Violation of the terms and conditions of the environmental compliance certificate <i>(refers to any person who willfully violates or grossly neglects to abide by the terms and conditions of the environmental compliance certificate issued to said person to conduct mining activities and which causes environmental damage through pollution)</i>	RA 7942 Sec 108	Imprisonment of 6 months to 6 years or a fine of PhP 50,000 to PhP200,000 or both, at the discretion of the law
Violation of the terms and conditions of the building permit <i>(especially structures, or land or site where structures contribute to or cause its being polluted)</i>	RA 6541, Sec 1.10.05 and 1.01.07 Local ordinance	Corrective improvements Local ordinance

Sea-based pollution

Causing, aiding, or facilitating, directly or indirectly, in the storage, importation, or bringing into Philippine territory, including its maritime economic zone, even in transit, either by means of land, air, or sea transportation or otherwise keeping in storage any amount of hazardous and nuclear wastes in any part of the Philippines	RA 6969 Sec 13 (d) , Sec 14	Imprisonment of 12 years and 1 day to 20 years. If offender is a foreigner, he or she shall be deported and barred from any subsequent entry into the Philippines after serving his/her sentence; confiscation and forfeiture in favor of the Government of the proceeds of the unlawful act and instruments, tools, or other improvements including vehicles, sea vessels, and aircrafts used in or with which the offense was committed.
Discharging, dumping, or suffering, permitting the discharge of oil, noxious, gaseous, and liquid substances and other harmful substances from or out of any ship, vessel, barge, or any other floating craft, or other man-made structures at sea, by any method, means, or manner, into or upon the territorial and inland navigable waters of the Philippines	PD 979 Sec 4(a)	Fine of not less than PhP 200 nor more than PhP 10,000 or by imprisonment of not less than 30 days nor more than 1 year or both such fine and imprisonment, for each offense, without prejudice to the civil liability of the offender in accordance with existing laws; withholding of clearances from port; other administrative penalties that the Coast Guard may impose

Violation	Legal provisions	Penalties
<p>Throwing, discharging or depositing, dumping, or causing, suffering or procuring to be thrown, discharged, or deposited either from or out of any ship, barge, or other floating craft or vessel of any kind, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state into tributary of any navigable water from which the same shall float or be washed into such navigable water</p> <p>Depositing or causing, suffering or procuring to be deposited material of any kind in any place on the bank of any navigable water, or on the bank of any tributary of any navigable water, where the same shall be liable to be washed into such navigable water, either by ordinary or high tides, or by storms or floods, or otherwise, whereby navigation shall or may be impeded or obstructed or increase the level of pollution of such water</p> <p>Unlawful discharging, dumping or suffering, permitting the discharge of oil noxious, gaseous and liquid substance, harmful substances, waste and other matter in or out from company refineries, terminals, depots, and other establishments into or upon territorial and inland navigable water of the Philippines</p> <p>Illegal dumping of waste as listed in Annex I of PCG MC 02-91 entitled Dumping and Discharge of Wastes and Other Harmful Matters at Sea</p> <p>Dumping of waste or other matters listed in Annex II of PCG MC 02-91 entitled Dumping and Discharge of Wastes and Other Harmful Matters at Sea without special permit</p>	<p>PD 979 Sec 4(b)</p> <p>PD 979 Sec 4(c)</p> <p>PCG MC 02-91 5.a(1)</p> <p>PCG MC 02-91 5.a(2) (a)</p> <p>PCG MC 02-91 5.a(2) (b)</p>	<p>Additional penalties for oil spill:</p> <ul style="list-style-type: none"> ♦ <i>First offense:</i> A fine between PhP 4,000 and PhP 7,000 upon the vessel/oil company refinery or depot owners/operators and/or reprimand or suspension of up to 6 months from exercise of marine profession/license of the person directly responsible for the spill. ♦ <i>Second offense:</i> A fine between PhP 5,000 and PhP 8,000 upon the vessel/oil company refinery or depot owners/operators and/or reprimand or suspension from 6 months and 1 day to 1 year from the exercise of the marine profession/license of the person directly responsible for the spill ♦ <i>Third offense:</i> A fine between PhP 7,000 and PhP 10,000 upon the vessel/oil company refinery or depot owners/operators and/or revocation or cancellation of license of the person(s) directly responsible for the spill/discharge <p>Fine of not less than PhP 5,000 but not more than PhP 10,000 by the PCG District concerned</p>

Violation	Legal provisions	Penalties
Dumping of waste or matters as listed in Annex III of PCG MC 02-91 entitled Dumping and Discharge of Wastes and Other Harmful Matters at Sea without general permit/certification from EMB	PCG MC 02-91 5.a(2)(c)	
Maritime vessel without shipboard Oil Pollution Emergency Plan on board	PCG MC 04-93	Fine of PhP 5,000 for the first offense and PhP 10,000 for the second offense
Unauthorized discharge of maritime vessels into the sea all plastic materials including but not limited to synthetic fishing nets and plastic garbage bags <i>(exemptions and conditions where discharge of plastic may be allowed if arising from accidents like collision and or grounding as a result of force majeure or if disposal appears to be the only way of averting danger to human life or property and real threat to vessel and if there is probability that the damage consequent upon such disposal will be less than would otherwise occur)</i>	PCG MC 02-94	Fine of PhP 5,000 to PhP 6,000
Discharging or dumping by sea vessels of oil or oily mixture <i>(as provided in Annex II of PCG MC 03-94 entitled Prevention, Containment, Abatement, and Control of Marine Pollution)</i>	PCG MC 03-94	Fine ranging from PhP 5,000 to PhP 10,000, upon vessel/oil company refinery or depot/owner/operator, and/or suspension and/or revocation or cancellation of license of the person/s officer/s directly responsible for the spill/discharge, depending on the number of times the offense was committed
Discharging or dumping by sea vessels of hazardous or noxious substances <i>(as provided in Annex II of PCG MC 03-94 entitled Prevention, Containment, Abatement, and Control of Marine Pollution)</i>	PCG MC 03-94	Fine of PhP 8,000 to PhP 10,000 upon the owner/operator of vessels, and/or suspension for not more than 1 year of the officer directly responsible for the exercise of his marine profession, depending on the number of times the offense was committed
Throwing or dumping by sea vessels any refuse matter <i>(as provided in Annex I of PCG MC 03-94 entitled Prevention, Containment, Abatement, and Control of Marine Pollution)</i>	PCG MC 03-94	Fine of PhP 5,000 to PhP 10,000 upon the owner/operator of vessel/oil companies, reprimand or suspension of responsible officer and/or revocation or cancellation of license of the person/master or officer directly responsible.

Violation	Legal provisions	Penalties
Failure to notify the Philippine Coast Guard by the Master/Chief Engineer of the vessel and Salvor who spilled/discharged oil or oily wastes or noxious gases or harmful substances	PCG MC 03-94	Fine of PhP 8,000 to PhP 10,000 or suspension/revocation of license of the Master/Chief Engineer at the discretion of the Commandant, PCG depending upon the amount of spill
Maritime vessels without marine sanitation device or sewage treatment <i>(for vessels of 200 GT and above or less than 200 GT which are certified to carry more than 50 persons)</i>	PCG MC 01-94	Fine of PhP 5,000 to PhP 10,000 to be imposed by the Coast Guard; suspension of the Certificate of Inspection (CI) until sewage system prescribed is installed and certified
Non-compliance of maritime vessels on the requirements specified in the Memorandum on Prevention, Containment, Abatement, and Control of Marine Pollution	PCG MC 03-94	Fine of PhP 3,000 to PhP 10,000 on each missing requirement as enumerated in MC-03-94 (7) (5) (a)
Illegal sea transport of toxic and hazardous materials	PD 474 Sec 2(b) and 6(b) MOA between DOTC, DENR, DA, DILG on Feb. 3, 1999 Marina MC 147	For the shipowner/operator PhP 5,000 for the 1 st violation every departure where the shipment of cargoes is not covered by appropriate clearance; PhP 15,000 for the 2 nd violation for every departure where shipment of cargoes is not covered by appropriate clearance; PhP 50,000 for the 3 rd violation for every departure where shipment of cargoes is not covered by appropriate clearance

ANNEX 1

F. Legal provisions and penalties for other violations/crimes in the coastal zone

Violation	Legal provisions	Penalties
Graft and corrupt practices of public officials <i>(to include receiving gifts and favors of public officials and his relatives especially those who are charged with granting permits, licenses, or other concessions or divulging information that is confidential in nature and other acts detrimental to the government and other people)</i>	RA 3019	Imprisonment of not less than 1 year nor more than 10 years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income; suspension or loss of benefit
Violation of the code of conduct of public officials <i>(to include non-response to complaints, non-reply to letters or telegrams from the public in 15 days, questionable acts and transactions, misuse of confidential information, acceptance of gifts, among others)</i>	RA 6713	Imprisonment of not exceeding 5 years, or fine not exceeding PhP 5,000 or both in the discretion of the court of competent jurisdiction, disqualification to hold public office; removal from office
Importation of prohibited drugs	RA 6425 Sec 3 as amended by RA 7659	<i>Reclusion perpetua</i> to death and fine ranging from PhP 500,000 to PhP 10 million
Sale, administration, delivery, distribution, and transportation of prohibited drugs	RA 6425 Sec 4 as amended by RA 7659	
Possession or use of prohibited drugs	RA 6425 Sec 5 as amended by RA 7659	
Importation of regulated drugs	RA 6425 Sec 14 as amended by RA 7659	
Sale, administration, delivery, distribution, and transportation of prohibited drugs	RA 6425 Sec 15 as amended by RA 7659	
Possession or use of prohibited drugs	RA 6425 Sec 16 as amended by RA 7659	

ANNEX 2

Commonly asked questions answered

Q What are the elements of an effective coastal law enforcement program on the LGU level?

A A coastal law enforcement program of the municipal, city, or provincial LGU can only be effective if it is part of an integrated coastal resource management program jointly developed by all stakeholders. It must be supported by budgetary allotment for training, material procurement, and honoraria. It must have a clear operations plan duly recognized by the LGU and all law enforcement agencies concerned. It is ideal that such plan must be able to withstand the changing local government administration and the changing personalities in law enforcement agencies.

Q Who constitutes the coastal law enforcement team at the LGU level?

A All uniformed law enforcers such as the PNP, PNP-MG, PCG, Ports Police, Navy and non-uniformed law enforcers such as BFAR, DENR, NBI, DILG, deputized fish wardens and local officials should be members of the coastal law enforcement team of the LGU. Aside from their inherent mandates, coastal law enforcers must work together to address violations that in the coastal environment. It is also ideal that paralegal officers and NGOs are invited to be members of the composite team.

Q What is the delineation of duties and responsibilities of the different law enforcers who are part of the local coastal law enforcement team?

A Duties and responsibilities of individual agencies taking part in the coastal law enforcement program of the LGU must be consistent with their legal mandates and must be clearly stated in an operations plan jointly developed by all participating agencies. In principle, the LGU representative takes the lead in the coastal law enforcement activities with the uniformed service assisted by non-uniformed law enforcement agencies especially in pursuit of criminal violations. However, in law enforcement activities in pursuit of administrative violations, the LGU representative takes the lead with the agency that has jurisdiction over the case assisted by the uniformed service.

As much as possible, deputized law enforcers of the LGU should not be encouraged to operate without the assistance of either uniformed and or non-uniformed law enforcement agencies especially if they are not sufficiently trained in citizen's search, arrest, and seizure procedures.

Q What can an LGU do if the law enforcement agency or its officers refuse to cooperate in the conduct of local coastal law enforcement activities?

A The LGU through its local chief executive must report to the provincial office, regional office, or national office, as the case may be, of the law enforcement office stating therewith their refusal to cooperate with the local government. The Civil Service Commission (CSC) should be furnished a copy of the report.

Q Who is a fish warden and what is the role of the fish warden in coastal law enforcement?

A A deputized fish warden is a private citizen duly recognized by the government to assist in the enforcement of coastal laws who has voluntarily undergone a training conducted by BFAR and is formally recognized by the local chief executive of the LGU where he/she belongs.

The role of the fish warden is to provide necessary information useful to effect a successful law enforcement effort by uniformed and non-uniformed law enforcers in the LGU. In most cases, fish wardens assist in actual law field operations but only in meritorious cases should they effect a search, arrest, and seizure.

Q What are the activities of a coastal law enforcement team in an LGU?

A There are two types of activities that can be undertaken by coastal law enforcement team: preventive (soft) law enforcement, and corrective (hard) law enforcement. Preventive law enforcement may take the form of community conference or dialogue, holding of seminars on environmental protection, and constant visual presence in the community, among others. Corrective law enforcement are market denial operations, seaborne patrols, boat inspections, and checkpoints, among others.

Q In the conduct of a seaborne operation, can coastal law enforcers call on or board suspicious looking fishing vessels? Can the boat captain refuse?

A Yes, law enforcers who have duly introduced themselves as coastal law enforcers especially uniformed policemen and Coast Guard may call on or board any maritime vessel, fishing included inside the municipal waters they are duty-bound to protect.

The boat captain may not refuse especially uniformed PNP officers who may invoke Section 24 of RA 6975 and PCG officers who may invoke Sec. 3 of RA 5173 and PCG-Administrative Order Number 05-70 in boarding any maritime fishing vessel. Law enforcement officers may invoke Section 106 of RA 8550 and Article 151 of the Revised Penal Code if the boat captain refuses.

Other peace officers or public officials may also call on or board any maritime fishing vessel. However, due to intricacies involved in boat inspection, ONLY those officers trained for the purpose of boarding may conduct the inspection.

Q Can the local coastal law enforcer conduct seaborne operations and arrest violators inside the municipal waters of another municipality?

A Yes, they may effect arrest, search, and seizure of fishing vessels in another municipality but only in hot pursuit operations and/or upon prior approval of the municipality concerned. Arrested persons and seized properties, however, must be turned over to the municipality with jurisdiction over the municipal waters where violators were apprehended.

PNP officers alone may conduct land-based and seaborne operations and arrest violators or seize properties inside the municipal waters or land boundaries of another municipality provided that the Chief of Police of that municipality agrees and/or prior approval of the PNP Provincial Director or higher authorities is sought. However, in cases of hot pursuit, these requirements are also waived provided that the arrested violator or seized property is turned over to the PNP Station where the violation had been committed.

Q What are documentary requirements that the law enforcer must look for from the boat captain or crew when conducting vessel inspection?

A For a commercial fishing vessel, the following documents may be sought:

- a. Commercial Fishing Boat/Gear License (CFBL)
- b. Certificate of Vessel Registry (Flag/Nationality)
- c. Certificate of Inspection (CI)
- d. Certificate of Ownership
- e. Licenses of Officers or Special Permit
- f. Radio Ship Station License
- g. Individual fisherman's licenses
- h. Crew list
- i. Roll book/log book
- j. Invoice receipts

For municipal fishing boats:

- a. Municipal boat registration
- b. Fishing permit issued by the Mayor
- c. Permit to operate issued by PCG
- d. Certificate of number

Q What are the procedures needed when a fishing vessel is found to have violated fishery laws?

- A**
- a. Inform the boat captain of the violations and inform him and his crew of their rights
 - b. Take appropriate photographs
 - c. Establish and record the boat's position to include time/date taken at the boat's deck log book and chart
 - d. Promptly take and preserve fish if necessary for evidence purposes
 - e. Arrest all persons on board and book for offense/violations
 - f. Bring the boat to the PNP Station of the LGU where violation was committed
 - g. Have the boat captain sign an inspection release form to protect the inspectors from any liability that may arise
 - h. Turn over boat to PNP-MG for impounding while the case is being tried

Q How can law enforcers effectively establish their position when conducting arrests on municipal waters?

- A**
- a. Take the position from the boat's global positioning system if available and compare with the GPS unit of the arresting officer. Note discrepancies if any or-
 - b. Establish radar fix using bearing and distance method if available
 - c. Plot the location on sailing or harbor chart

- d. Take fix from 3 reference points (known landmarks in the vicinity as seen on the chart). Using compass and chart, position may be established by intersection
- e. Estimate position using visual observation and chart

Q What are the conditions that will warrant the impoundment of a maritime vessel? Where should the maritime vessel be impounded?

- A**
- a. For fishery laws, to be ceded to the nearest PNP-MG Station after complying with some documentary requirements.
 - b. For violation of Tariff and Custom Code, to be impounded to the nearest port by the Bureau of Customs Police
 - c. For violation of forestry laws, to be impounded to the nearest port or at the discretion of the DENR
 - d. For unseaworthiness, to be impounded to the PPA custody after turning over the vessel to the PCG station

Q Can the city/municipal LGU request the PNP or the PCG to assign a permanent personnel in their coastal law enforcement team? What are the steps?

A Yes, LGUs may request the PNP and/or the PCG personnel to be assigned in the *Bantay Dagat* provided the following steps will be followed:

- a. The LGU must consult the Chief of Police (COP) or PCG Station Commander on the matter regarding manpower deployment in his area of operation. The COP/Station Commander is in the better position to advise the LGU as to where the police/coast guard detail may come from. All requests may be appealed to higher authorities.
- b. Write a formal letter of request to the Chief of Police/ Station Commander or to the appropriate office.
- c. Establish a mechanism by which the assignment of the police/coast guard officer detailed in the *Bantay Dagat* is made formal by way of a Memorandum of Agreement or any other legal instruments available.

Q Can the LGU request the PNP-MG or PCG to establish a detachment in their municipality? What are the steps?

A Yes, LGUs may request PNP-MG or PCG to establish detachment in their localities provided the following steps will be followed:

- a. Conduct prior consultation with the Chief of Police or PCG Station Commander
- b. Submit a formal letter attached with a *Sanggunian* Resolution to the PNP Maritime Director through the Regional Officer or PCG District Commander through the Station Commander stating the result of consultation, the purpose of the detachment, proposed site, and proposed cooperative scheme in maintaining the detachment.

Police as prosecutors

In case there is no fiscal in a locality when the violation was committed who will represent the state as prosecutor in a court case?

Any peace officer or public officer charged with the enforcement of the law violated may prosecute the case under Section 5, Rule 110 of the Rules of Court provided they are under the direction and control of the fiscal, provided further that the violation is to be tried under Municipal Trial Courts or Municipal Circuit Trial Courts. Under Section 7 of RA 4864, all members of the police agency shall be peace officers.

Under an emerging trend, private practicing lawyers formally deputized by the LGU may represent the state as a prosecutor.

- c. Establish a mechanism by which the operationalization of the detachment is made formal by way of a Memorandum of Agreement or any other legal instruments available.

Q What is an ideal patrol boat for an LGU?

A An ideal patrol boat must have the following qualities:

- a. Hull design that suits the topography of the area of operations such as depth of water, coral reef formations, mangrove areas, and other navigational considerations.
- b. Body design that can carry enough law enforcers safely and comfortably, and house accessories of the widest types of violations possible
- c. Speed necessary to overrun target violators
- d. Equipment that will enhance effective coastal law enforcement and protect law enforcers from enemy resistance.

Q Can the Mayor, *Barangay* Chairman, or Chief of Police be held liable for rampant illegal fishing activity in his area? To whom do the people report?

Yes. A Mayor, *Barangay* Chairman, or Chief of Police may be held liable for rampant illegal fishing activity in their locality provided the following conditions are present:

- a. In spite of repeated formal reports or complaints as reflected in local police blotter or stamped received letters, no action was taken
- b. That the complainant will be able to prove that the Mayor, *Barangay* Chairman, or Chief of Police deliberately disregarded reports and complaints pointing to illegal fishing activities in their area of responsibility
- c. That the complainant will be able to prove that Mayor, *Barangay* Chairman, or Chief of Police is in cahoots with violators of fishery laws

Who are referred to as coastal law enforcers?

There are three types of law enforcers tasked to enforce coastal laws: the uniformed service, non-uniformed service, and the deputized law enforcers.

The **uniformed service enforcers** are military organizations such as the army, navy, and air force and "civilianized" organizations such as the PCG and PNP. Uniformed services also known as peace officers are generally mandated to enforce all laws of the land that is why they are automatically authorized to carry firearms. Their organizations follow a chain of command.

Non-uniformed law enforcers are government agencies with specific law enforcement mandates such as the DENR, DA-BFAR, DOTC, and PPA, among others. Their authority lies in the office or division to which they are assigned. There are non-uniformed law enforcers that are authorized to carry firearms such as the NBI. The port police or customs police and airport police, although donning uniforms, belong to non-uniformed service for lack of a chain of command.

Deputized law enforcers are citizens duly recognized by the law to enforce specific laws such as fish wardens, *barangay tanod* and *barangay* intelligence officers among others. Their authority rests on the appointing office or officer and therefore terminates automatically when the appointing authority ceases to function. Deputized law enforcers may only carry firearms on highly meritorious cases.

The erring officials, including the Mayor, may be reported to the Civil Service Commission, Office of the Ombudsman, and provincial or regional offices of the DILG or the DOJ. Governors may be reported to DILG or Office of the President.

The Chief of Police may be reported to the Mayor, in his capacity as deputy of the National Police Commission, or to his Provincial Director or Regional Director.

Q What are the common counter-suits filed against law enforcers by commercial fishing vessel operators? How can these be avoided?

A The common counter suits encountered by coastal law enforcers are:

- a. Unlawful arrest
- b. Damage to property
- c. Extortion

These counter-suits may be avoided through:

- a. Proper training of law enforcers in the area of coastal laws especially on navigation, boarding, inspection, arrest and seizure, and prosecution processes;
- b. Conduct of operations are multi-agency to ensure transparency; and
- c. Completion of appropriate legal forms.

Q What can ordinary citizens do to help stop illegal fishing?

- A**
- a. Support government programs that promote sustainable fishing;
 - b. Join NGOs that advocate environmental protection;
 - c. Formally report violations of coastal laws to the police through the police blotter; or
 - d. Be a deputized fish warden.

Police blotter

The police blotter is an instrument by which citizens are able to report formally to the police any incidence and/or occurrence that might disrupt public order and safety, and a mechanism by which the police are able to record and monitor all unusual activities in their area of responsibility. Information fed to the police blotters flows from the police detachment up to the chain of offices that leads to the national headquarters.

Police blotters can be a powerful instrument that the community may use in reporting incidences and suspects of illegal coastal law violations. Citizens may go to any police detachment or station to report current, past, or anticipated coastal law violations whether for action or for information purposes. The police may not refuse anybody from requesting that such information especially concerning coastal law violations be encoded in the police blotter. Information contributed or "entries" as they called are given reference numbers. These reference numbers may be requested by the reporter for his own reference in monitoring progress of his report.

The police blotter may replace a formal written report to the police.

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Coastal law enforcement units must be formed and functional in all coastal LGUs to promote voluntary compliance with and to apprehend violators of national and local laws and regulations.

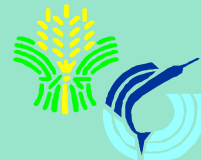
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